

CRM-M-19090-2023

Date of Decision: 22.02.2024

Sukhwinder Singh alias Sonu

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Salil Dev Singh Bali, Advocate
for the petitioner.

Mr. Inderjeet Singh Ladher, DAG, Punjab

KARAMJIT SINGH, J.

Prayer in the present petition under Section 439 of Code of Criminal Procedure is for grant of regular bail to the petitioner in case FIR No. 0009 dated 09.01.2022 registered for the offences punishable under Sections 20(b)(ii)C of Narcotic Drugs and Psychotropic Substances Act, 1985 (Sections 20C, 61, 85 of NDPS Act added later on), at Police Station Salem Tabri, District Police Commissionerate Ludhiana.

2. The allegations in nutshell are that on 09.01.2022 police arrested co-accused Ravi Kumar and Juna Kumar and recovered 2 Kg of Charas from them. During investigation, both Ravi Kumar and Juna Kumar made disclosure statement against the present petitioner and accordingly, petitioner was nominated as accused and arrested in the present case.

3. Counsel for the petitioner submits that the petitioner was not named in the FIR and subsequently, nominated as accused on the basis of alleged disclosure statement made by co-accused. It is further submitted that

the said disclosure statement will be subject matter of trial. That petitioner is in custody for the last more than 2 years and the trial is not progressing ahead and that similarly situated co-accused Honey @ Katti who was also nominated as accused on the basis of disclosure statement is given benefit of bail vide order dated 21.04.2022 in CRM-M-15341-2022. He further submits that in the given circumstances, no fruitful purpose is going to be served by detaining the petitioner in custody for any longer period.

4. Short reply by way of affidavit of Sumit Sood, PPS, Assistant Commissioner of Police, North Ludhiana filed on behalf of respondent-State is taken on record along with copy of FSL report (Annexure R-1).

5. Learned State counsel submits that in the present case commercial quantity of Charas was recovered from co-accused Ravi Kumar and Juna Kumar and the petitioner was named as accused on the basis of disclosure statement made by them and thereafter the petitioner was arrested. However, State counsel has not disputed that the petitioner is in custody for the last more than 2 years and that till date prosecution is able to examine only two witnesses out of total 15 witnesses and that co-accused Honey@ Katti is given concession of regular bail vide order dated 21.04.2022. State counsel further apprised the Court that the petitioner is also involved in one another case under Section 302 IPC.

6. Counsel for the petitioner apprised the Court that in the murder case faced by the petitioner, he is already enlarged on bail vide order dated 28.02.2023 (Annexure P-3).

7. I have considered the submissions made by the counsel for the parties.

8. It is apparent that the petitioner was not named in the FIR

which was registered against Ravi Kumar and Juna Kumar from whom police recovered 2 Kg of Charas which comes under commercial quantity. As per prosecution, the petitioner was nominated as accused on the basis of disclosure statement made by Ravi Kumar and Juna Kumar. The admissibility and relevance of the said disclosure statement will be tested during trial. It is also apparent that the petitioner is in custody for the last more than 2 years and no contraband was recovered from his physical possession and he is presently lodged in judicial custody and is having no criminal history under NDPS Act and is granted bail vide order dated 28.02.2023 (Annexure P-3) in a murder case faced by him. It also appears that the trial is at its initial stage and it will take time for the trial to terminate. Similarly situated co-accused Honey who was also nominated as accused on the basis of disclosure statement is already enlarged on bail vide order dated 21.04.2022.

9. In the given circumstances, no useful purpose is going to be served by keeping the petitioner in custody for any longer period.

10. In light of the above, without expressing any opinion on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(KARAMJIT SINGH)
JUDGE

22.02.2024
Priyanka Thakur

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No