

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-18755-2024 (O&M)

Date of Decision: 26.04.2024

Irshad Ahmad @ Zuber

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Ruhani Chadha, Advocate,
for the petitioner.

Mr. Adeshwar Singh Pannu, AAG, Punjab.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No. 12 dated 31.01.2021, under Section 15 of NDPS Act, registered at Police Station Division No.7, District Jalandhar.
2. Learned counsel appearing on behalf of the petitioner submitted that the petitioner is in custody from 31.01.2021 which is almost 3 years and 3 months and charges in the present case were framed on 08.10.2021 which is almost 2½ years ago and till date only 10 prosecution witnesses have been examined. He further submitted that petitioner is not involved in any other case and has got clean antecedents. He submitted that the alleged role of the petitioner was that he was sitting in the truck and the other

co-accused were shifting some bags of poppy husks from the truck to the car. He submitted that the other co-accused namely, Danish Manzoor and Manjit Singh @ Lada who were at parity with the present petitioner have already been extended the benefit of regular bail by this Court in CRM-M-320-2024 and CRM-M-18383-2024 on 23.04.2024 and considering the aforesaid custody and the fact that the other co-accused have been granted bail by this Court, the petitioner may be considered for the grant of regular bail.

3. On the other hand, Mr. Adeshwar Singh Pannu, AAG, Punjab has submitted that so far as the custody of the petitioner is concerned, the same is correct and it is also correct that the petitioner is having clean antecedents and he is not involved in any other case. The parity of the petitioner with the aforesaid co-accused is not disputed by the learned State counsel.

4. I have heard the learned counsels for the parties.

5. It is a case where the petitioner has already faced incarceration for 3 years and 3 months. On 23.04.2024, this Court while considering the bail petition of the aforesaid two co-accused has granted bail particularly on the ground of delay in the trial and while referring to the judgments of the Hon'ble Supreme Court in this regard. The petitioner is stated to be having clean antecedents. While considering the bail petition of the aforesaid two co-accused, this Court also came to the conclusion that the bar contained under Section 37 of the NDPS Act will not apply in the light of Article 21 of the Constitution of India considering the long custody and the stage of the trial. So far as the present petitioner is concerned, the bar contained under

Section 37 of the NDPS Act will not apply in the present case in the light of Article 21 of the Constitution of India.

6. Therefore, considering the totality and circumstances of the present case, this Court deems it fit and proper to grant regular bail to the petitioner.

7. In view of the above, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

8. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

26.04.2024

rakesh

Whether speaking

Whether reportable

(JASGURPREET SINGH PURI)

JUDGE

:

:

Yes/No

Yes/No