

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

205

CRM-M No.21162 of 2023 (O&M)
Date of decision: 15.04.2024

Pardeep Kumar

....Petitioner

Versus

State of U.T. Chandigarh

....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Sohrab Dhanda, Advocate for the petitioner.

Mr. J.S. Toor, APP, U.T., Chandigarh.

NAMIT KUMAR J. (Oral)

1. Prayer in this 2nd petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.0025 dated 13.05.2022 registered under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') at Police Station I.T. Park, Chandigarh.
2. Learned counsel for the petitioner submits that as per the allegations in the FIR, on 13.05.2022, the police party was on patrolling duty and they were present at Kishangarh Chowk where they saw a person walking towards them carrying a plastic bag in his right hand. On seeing the police party, he became perplexed and thereafter, on the basis of suspicion, he was apprehended by the police party and asked about his whereabouts, on which he disclosed his name as Pardeep Kumar. Thereafter, on conducting his personal search, recovery of 1 Kg 10 grams of Ganja was recovered from him.

3. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in the present case. He further submits that there are total 13 prosecution witnesses out of which, 05 PWs stand examined and 06 PWs are given up and only 02 PWs remained to be examined and the next date of hearing, fixed before the trial Court, is 16.05.2024. He also contends that petitioner is in custody for the last about 01 year, 11 months and 02 days and the investigation has already been completed. Lastly, he submits that the conclusion of the trial is likely to take some time and no fruitful purpose would be served by detaining the petitioner behind the bars.

4. Per contra, learned counsel for the State while placing on record the custody certificate dated 15.04.2024, has opposed the prayer for grant of regular bail to the petitioner. He further submits that petitioner is an habitual offender and he is involved in 04 other cases, therefore, he does not deserve the concession of regular bail.

5. Refuting the above contention of the learned State counsel, learned counsel for the petitioner contends that in FIR No.125 dated 11.05.2018, petitioner stands acquitted; in FIR No.27 dated 14.02.2018, he has already undergone the sentence; in FIR No.125 dated 21.04.2012, the petitioner is released on probation for good conduct and in FIR No.228 dated 16.06.2009, he has already completed his sentence for a period of 01 year. Learned counsel for the petitioner has relied upon the judgment of Hon'ble Supreme Court in ***“Maulana Mohd. Amir Rashadi Vs. State of U.P. and another”***, 2012 (2) SCC

382, to contend that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other cases. The relevant portion of the said judgment is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

6. I have heard learned counsel for the parties and perused the record.

7. Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last about 01 year, 11 months and 02 days; investigation is complete; challan stands presented; out of 13 PWs, 05 PWs stands examined, 06 PWs are given up and only 02 PWs remain to be examined; petitioner is already on bail in other FIRs and conclusion of the trial is likely to take some time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate. However, in addition to conditions that may be imposed by the trial Court/Duty Magistrate concerned, the petitioner shall remain bound by the following conditions: -

- (i) The petitioner shall not mis-use the liberty granted.

- (ii) The petitioner shall not tamper with any evidence oral or documentary during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence similar to the one alleged in the present case.
- (v) The petitioner shall deposit his passport, if any with the trial Court.
- (vi) The petitioner shall give his cellphone number to the police authorities and shall not change his cellphone number without permission of the trial Court.
- (vii) The petitioner shall not in any manner try to delay the trial.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by the trial Court, the prosecution shall be at liberty to move an application for cancellation of bail of the petitioner.

(NAMIT KUMAR)
JUDGE

15.04.2024

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No