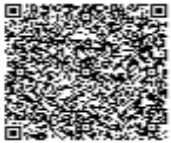


2024:PHHC:071836



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

228

CRM-M-24464-2024
Date of decision : 21.05.2024

Sikandar @ Sikander Kumar Petitioner

versus

State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Narinder S. Lucky, Advocate
for the petitioner.

Mr. Jaswinder Singh Arora, DAG, Punjab
with SI Jaswinder Singh.

PANKAJ JAIN, J. (Oral)

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.22 dated 02.03.2024, registered for the offence punishable under Section 18 of the NDPS Act, 1985 (Section 29 of NDPS Act, 1985 added later on) at Police Station Division No.3, District Jalandhar.
2. Counsel for the petitioner submits that as per prosecution, one Sunny @ Jagga was apprehended carrying 2 kg of opium. Further investigation led to arrest of 12 accused and recovery of about 22 kg of opium and 04 vehicles. So far as the petitioner is concerned, though the petitioner has been nominated by the co-accused but there is no recovery effected from him. Further relies upon order dated 23.4.2024 passed by Coordinate Bench in CRM-M-18448-2024, whereby co-accused Balihar Singh @ Suri stands admitted to bail observing as under:-

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“5. As per story of the prosecution, the petitioner has been arrayed as an accused only on the basis of the disclosure statement suffered by his co-accused namely Sunil Kumar @ Suraj and the admissibility of such a statement is yet to be adjudicated by the trial Court, during the course of trial.

6. Without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned, subject to the following conditions:-

(i) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.

(ii) The petitioner shall remain present before the Court on the dates fixed for hearing of the case.

(iii) The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.

(iv) The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.

(v) The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.

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(vi) In case, the petitioner involves in any other criminal activity, during the pendency of the trial, it shall be viewed seriously.

(vii) The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bails bonds and surety bonds of the petitioner.”

3. State counsel does not dispute the fact that apart from the disclosure made by the co-accused, there is no other incriminating evidence against the petitioner. However, submits that he cannot claim parity vis-a-vis Balihar Singh @ Suri as while granting indulgence to Balihar Singh @ Suri, the High Court observed that there is no other prosecution being faced by him whereas the petitioner in the present case is facing another FIR i.e. FIR No.58 dated 18.03.2024.

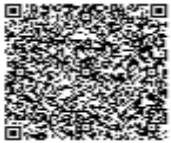
4. Counsel for the petitioner submits that the said FIR is subsequent thereto and the same has also been registered by resorting Section 29 of the Act.

5. Without further commenting on the merits of the case, keeping in view the incarceration suffered by the petitioner and the nature of evidence against him, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned. 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

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- 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 while on bail.
 - (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 cell-phone number without permission of the trial Court.
 - (vii) The petitioner shall not in any manner try to delay the trial.

6. 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 cancellation of bail of the petitioner.

7. Ordered accordingly.

(PANKAJ JAIN)
JUDGE

21.05.2024
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No