

CRM-M-44663-2023 (O&M) -1-

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(205)

CRM-M-44663-2023 (O&M)
Date of decision:- 09.01.2024

Sakeel ... Petitioner
Versus
State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Ram Singh Choudhary, Advocate for the petitioner.

Mr. Gaurav Garg Dhuriwala, Senior DAG, Punjab
for State-respondent.

SUVIR SEHGAL, J. (ORAL)

1. This is the second petition filed under Section 439, Cr.P.C. seeking grant of post-arrest bail in:-

FIR No.	Dated	Police Station	Section
0095	25.02.2020	City Barnala, District Barnala, Punjab	22 of the NDPS Act

2. FIR, Annexure P-1, has been registered on the basis of secret information and one, Mohal Lal @ Kala, was arrested. Recovery of 80 strips of Alprsafe and 120 strips of Etolame, total 2000 intoxicating tablets, was made from him. His interrogation led to a chain of arrests, including that of the petitioner, who was apprehended on 31.03.2021.

3. Counsel for the petitioner has argued that no recovery has been effected from the petitioner and he is languishing behind bars since the last two years, ten months and ten days and the trial is nowhere near conclusion.

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He submits that in these circumstances, the petitioner deserves to be enlarged on bail.

4. *Per contra*, State counsel, upon instructions from ASI, Kuldeep Singh, has opposed the petition and has made a reference to the various orders passed by this Court as well as the Supreme Court in the cases of co-accused. He also submits that the petitioner is named as an accused for another offence registered against him under the provisions of the NDPS Act.

5. I have heard counsel for the parties and considered their respective submissions.

6. Previous petition filed by the petitioner was rejected by this Court vide order dated 29.11.2022, Annexure P-11 and its relevant extract is reproduced as under:-

“It has been submitted in the status report that during investigation, the accused revealed the names of the present petitioners and their interrogation led to recoveries. As per the affidavit filed by the State, in addition to drug money of Rs.1,72,60,000/- and five vehicles, a huge quantity of 45,39,470 prohibited tablets, capsules and injections have been recovered from the 17 accused, who have been arrested. It has been stated in the affidavit that all the accused formed part of a gang and were working hand in glove with each other while trafficking in commercial quantity of drugs and were also found to have been involved in a number of other cases registered against them under the NDPS Act.

From the above, it is evident that both the petitioners are a vital link in the chain of supply and sale of drugs. Although, no recovery has been effected from the accused, Sakeel, but considering the overall recoveries effected and the criminal past, this Court is of the view that in the face of stringent provision of Section 37 of NDPS Act, no relief can be granted.

Still further, it may be noticed that petitions filed by some of the co-accused including accused, Rupesh Kumar, has been rejected by this Court on 23.07.2021. SLPs preferred by some of the co-accused against this order have been dismissed

by the Supreme Court and while dismissing SLP (Criminal) 9705-2021, Apex Court passed the following order:-

“We see no reason to interfere. The Special Leave Petition is dismissed.

The Trial Court may do well to expedite the process and conclude the proceedings as early as possible.

Pending applications, if any, shall stand disposed of.”

7. Upon instructions, State counsel submits that after the above directions of the Supreme Court, prosecution has concluded its evidence in September, 2023 and forty witnesses have been cited by the defence, out of which, seven have been examined. In the light of the above development, it cannot be said that the respondents are responsible for the delay in the conclusion of the trial.

8. Furthermore, filing of subsequent petition for grant of bail amounts to seeking review of the previous order, which is not permissible in criminal law as has been held by the Supreme Court in ***Hari Singh Mann Vs. Harbhajan Singh Bajwa (2001) 1 SCC 169; State of Madhya Pradesh Vs. Kajad, 2001 SCC (Criminal) 1520*** and ***State of Maharashtra Vs. Capt. Buddhikota Subha Rao, 1989 Supl. (2) SCC 605***.

9. Finding no merit in the petition, it is hereby dismissed.

10. Nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

09.01.2024

Kamal

(SUVIR SEHGAL)

JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No