



CRM-M-47666-2024

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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-47666-2024

Date of decision : 27.09.2024

Sarban Singh @ Lakhi @ Sarwan Kumar

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.P.S. Sekhon, Advocate and
Mr. Rajdeep Singh Gill, Advocate
for the petitioner.

Mr.P.S. Bhandari, AAG, Punjab.

VIKAS BAHL, J.(ORAL)

1. This is a second petition filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.47 dated 11.07.2021 registered under Sections 21, 22, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Rureke Kalan, District Barnala.

2. Learned counsel for the petitioner has submitted that the petitioner was not apprehended on the spot and was arrested on 14.07.2021 and was granted regular bail by this Court vide order dated 02.12.2021 passed in CRM-M-49251-2021 (Annexure P-2) and thereafter, the mother of the petitioner fell ill and on account of the same, the petitioner could not appear on certain dates before the trial Court and his bail was cancelled on

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02.03.2024 and he was declared as a proclaimed offender vide order dated 04.05.2024. It is submitted that after the mother of the petitioner had recovered, the petitioner immediately filed CRM-M-42753-2024 and the Coordinate Bench of this Court vide order dated 02.09.2024 was pleased to pass the following order:-

“5. In view of the limited prayer made by the learned counsel for the petitioner, the instant petition is disposed of with the following directions:

“The petitioner is to appear and surrender before the trial Court within 07 days from today. Till then, no coercive steps be taken against the petitioner. This is contingent upon the petitioner paying a cost of Rs.10,000/- to be deposited with the District Legal Services Authority concerned ”.

6. It is made clear that in case, the petitioner fails to surrender before the Trial Court within 07 days from today, this order shall be of no avail to him, thereafter. In case, on appearance and surrender, the petitioner moves an application for bail, the Trial Court shall make earnest efforts to decide it expeditiously, in accordance with law.”

It is submitted that in pursuance of the abovesaid order, the petitioner surrendered before the trial Court and even deposited cost of Rs.10,000/- but the learned trial Court vide order dated 10.09.2024 dismissed the application for regular bail. It is submitted that in addition to the earlier custody, the petitioner has now been in custody since 09.09.2024 and the investigation is complete and the challan has been presented and there are 16 prosecution witnesses, out of which 8 witnesses are yet to be

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given up and thus, the trial is likely to take time. It is further submitted that the petitioner undertakes to appear before the trial Court on each and every date of hearing and for the delay caused, the petitioner is ready to abide by any order of costs that would be passed by this Court.

3. Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that in the present case, the petitioner had misused the concession of regular bail and in view of the same, his bail was cancelled and he was even declared as a proclaimed offender. It is submitted that the petitioner does not deserve the concession of regular bail.

4. Keeping in view the above said facts and circumstances, moreso, the fact that the petitioner was not apprehended on the spot and was arrested on 14.07.2021 and was granted regular bail vide order dated 02.12.2021 (Annexure P-2) and the fact that the plea of the petitioner that his non-appearance was on account of ill health of his mother, was noticed in the order dated 02.09.2024 (Annexure P-3) passed by the Coordinate Bench of this Court and that the Coordinate Bench vide order dated 02.09.2024 had directed the petitioner to appear before the trial Court within 7 days and to deposit Rs.10,000/- with the District Legal Services Authority and that the petitioner had complied with the said order and also the fact that the petitioner after his initial custody, has been in custody since 09.09.2024 and out of 16 witnesses, 8 witnesses are yet to be examined and the trial is likely to take time and no purpose would be served by keeping the petitioner in further incarceration, thus, the present petition is allowed



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and the petitioner is ordered to be released on bail on his furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to him not being required in any other case and also subject to the petitioner depositing Rs.10,000/- in the High Court Lawyers' Welfare Fund within a period of one week from today and producing the receipt regarding the same before the trial Court. The same would also be subject to the petitioner giving an undertaking before the trial Court within a period of two weeks from today that he would appear on each and every date of hearing before the trial Court.

5. However, it is made clear that in case, any act is done by the petitioner to threaten or influence the complainant or any of the witnesses, then, it would be open to the State to move an application for cancellation of the bail granted to the petitioner.

6. Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case, which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

September 27, 2024.
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No