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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-59932-2023(O&M)

Date of Decision: 06.03.2024

Chiman Singh @ Babbu

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Raghav Goyal Chandiwalla, Advocate, for the petitioner.

Mr. Adeshwar Singh Pannu, AAG, Punjab.

JASGURPREET SINGH PURI, J. (Oral)

1. The present is a third petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in FIR No.23 dated 24.04.2022, under Sections 21 and 29 of NDPS Act, registered at Police Station Amir Khas, District Fazilka.

2. Learned counsel for the petitioner has submitted that the petitioner is in custody for 1 year and 10 months and after completion of the investigation, the challan was presented and charges in the present case were framed on 01.08.2022 but the prosecution did not get any of the prosecution witness examined for a long period of time which was about 1 ½ years. He submitted that thereafter one of the another co-accused namely, Sumit Kumar had filed a petition for grant of bail which was allowed by this Court on 03.11.2023 on the ground that long period has elapsed even after the framing of the charges but none of the prosecution witnesses has

been examined and also the recovery was from the dashboard of the car and not from the conscious possession of any of the accused. He also submitted that the present petitioner is exactly at parity with the aforesaid co-accused namely, Sumit Kumar except that the aforesaid Sumit Kumar was having clean antecedents and the petitioner was involved in one case under the POCSO Act in which he has since been acquitted and in one more case under the NDPS Act in which the cancellation report was filed by the police but the same has not been accepted by the learned trial Court. He submitted that the same itself would not become a ground for denial of bail to the petitioner in view of the fact that presently only two witnesses have been examined by the prosecution and the petitioner is in custody for 1 year and 10 months and the petitioner is at parity with the aforesaid co-accused namely, Sumit Kumar who has been granted bail by this Court vide Annexure P-2.

3. On the other hand, Mr. Adeshwar Singh Pannu, learned 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 other co-accused namely, Sumit Kumar has already been extended the benefit of regular bail by this Court vide Annexure P-2 and it was a case that there were three accused sitting in a car and on information there was a recovery of 260 grams of *heroin* which was recovered from the dashboard of the car. He submitted that the petitioner is involved in one more case under the NDPS Act and the recovered quantity falls in the category of commercial quantity and therefore, the petitioner does not deserve the concession of regular bail.

5. I have heard the learned counsel for the parties.

6. It is a case where the petitioner has already faced incarceration

for 1 year and 10 months. At the time when the bail petition of the co-accused Sumit Kumar was considered, he was granted bail primarily on the ground that the recovery was from the car and also that the trial was taking long time and no prosecution witness was examined despite the fact that at that point of time 1 year and 3 months had elapsed after the framing of the charges and none of the witnesses has been examined. The aforesaid order was passed vide Annexure P-2 on 03.11.2023 and now as per learned counsel for the State two witnesses have been examined thereafter. This Court is of the view that the parity of the petitioner with the aforesaid co-accused Sumit Kumar cannot be denied to the petitioner. The mere fact that the petitioner is involved in one more case under the NDPS Act also cannot become a ground for denial of bail to the petitioner and he deserves the bail not only on the ground of parity but also on the ground of his long custody.

7. In view of the totality and circumstances of the present case, 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, if not required in any other case.

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.

06.03.2024

rakesh

(JASGURPREET SINGH PURI)

JUDGE

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No