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IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

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CRM-M-54090-2024 (O&M)
Date of decision: 30.01.2025

Gurkirat Singh @ Kirat

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Gaurav Datta, Advocate,
Mr. Vaibhav Bhargav, Advocate and
Mr. Saurabh Savara, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. The instant one is the second petition that has been filed by the petitioner for grant of regular bail to the petitioner in FIR No. 103 dated 09.12.2023, registered under Sections 22-C and 29 of the NDPS Act, 1985 and Section 25 of the Arms Act, 1959 at Police Station City Morinda, District Rupnagar. The first petition, bearing number CRM-M-30136-2024, was dismissed by this Court on 29.07.2024. The operative part of the order dated 29.07.2024 reads as under:

“7. The petitioner has been nominated in this case on the basis of the disclosure made by co-accused Simranjeet Singh @ Simra, from whose custody, recovery of 20 injections of *Buprenorphine* of 10 ml each was effected, which falls under the commercial quantity. Apart from that, 03 country made pistols along with 11 live

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bullets were also recovered from the co-accused. The petitioner is also involved in one more FIR under the Arms Act. Investigation has since been completed. *Challan* has been presented and the case is now fixed for framing of charge. The apprehension raised by learned State counsel that the petitioner, if extended bail, can abscond or tamper with the prosecution evidence cannot be stated to be unfounded. So far as the ratio of law as laid down by Hon'ble Supreme Court in ***Tofan Singh***'s case (supra) is concerned, the same is not disputed but it stands clarified by Hon'ble Supreme Court in ***State of Haryana vs. Samarth Kumar : 2022(3) RCR (Criminal) 991***, wherein it has been held that the advantage of decision of ***Tofan Singh***'s case (supra) can be taken at the time of final hearing after conclusion of trial and even at the time of regular bail but that alone cannot form sufficient ground to grant regular bail as other parameters are also required to be looked into as in the present case, the recovery effected from the co-accused falls under commercial quantity and it was disclosed by him that he used to supply the contraband to the petitioner. The antecedents of the petitioner are also not clean. More so, the rigors of Section 37 of the NDPS Act would also be attracted in this case. Keeping in view the discussion as made above, the quantum of sentence which the conviction may entail and the attendant facts and circumstances of the case, I am of the considered opinion that the petitioner does not deserve to be granted benefit of regular bail, at this stage. Hence, the petition is dismissed."

2. The only argument which has been raised by learned counsel for the petitioner for grant of regular bail to the petitioner is that the extended period of incarceration has entitled the petitioner to be released on bail and

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also that he has been implicated in this case due to political rivalry in the village. Hence, it is urged by him that the petition deserves to be allowed.

3. *Per contra*, it is argued by learned Deputy Advocate General, Punjab that the previous petition as filed by the petitioner was dismissed by passing a detailed order by this Court by taking into consideration the contentions raised by both sides. It is submitted that no new change in the circumstances has been pointed out. The mere extended period of incarceration alone is not sufficient to grant benefit of bail to the petitioner. The trial is going on at a proper pace. It is also argued that if the petitioner is released on bail, he can abscond or indulge in similar offences. Therefore, it is urged that the petition does not deserve to be allowed.

4. I have heard learned counsel for the parties at considerable length and have gone through the record carefully.

5. The previous petition as filed by the petitioner for grant of regular bail had been dismissed vide order dated 29.07.2024. The instant one has been filed within a period of six months of the said order. It is well settled proposition of law that when successive bail applications come before the Court, the Court should be very cautious while considering the same. Successive bail applications can be entertained by the Court when some substantial change is established by the accused thereby making him entitled for grant of bail. Reference in this regard can be made to ***State of Maharashtra Vs. Captain Buddhikota Subha Rao, AIR 1989 Supreme Court, 2292***, wherein it was observed so and it was further held that the Court should not pass an order of release of an accused on bail in successive bail application merely establishing some cosmetic change between time gap of two

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applications. There must be some drastic change during the period between two applications. Reference can also be made to *Kalyan Chandra Sarkar Vs. Rajesh Ranjan @ Pappu Yadav and another (2004) 7 SCC 528*, wherein it was observed by Hon’ble Supreme Court that where the offence alleged against an accused is grave, bail cannot be granted only on the ground of long incarceration.

6. After hearing the contentions as raised by learned counsel for the petitioner, I am of the considered opinion that no substantial or drastic change from the date of dismissal of the previous petition as moved by the petitioner has been pointed out or made out from the pleas taken by the petitioner. Merely the extended/prolonged period of incarceration or examination of some material witnesses is not a ground to extend any such benefit. The trial is also going on at a good pace and there is nothing to show that there would be any undue delay in conclusion of the same. Keeping in view the nature and gravity of the offence, in my considered opinion, it is not a fit case to enlarge the petitioner on bail, especially in view of the fact that no drastic or material change in the circumstances has been made out. In view of the discussion as made above, I am of the considered opinion that the petition does not deserve to be allowed. Hence, the same is dismissed.

7. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

30.01.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No