

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-7137-2015

Date of decision: 29.04.2015

BALDEV SINGH

.....Petitioner(s)

Versus

STATE OF PUNJAB

.....Respondent(s)

CORAM:- HON'BLE MR.JUSTICE DARSHAN SINGH

*** * ***

Present: Mr. Divyjit S. Sandhu, Advocate for the petitioner(s).

Mr. Neeraj Yadav, AAG, Punjab.

DARSHAN SINGH, J.

This petition has been filed under Section 439 of the Code of Criminal Procedure (hereinafter called as 'the Code') for grant of regular bail.

As per the prosecution allegations, on 7.1.2015, the present petitioner along with his co-accused Amandeep Singh was apprehended while coming on the motor-cycle. As a result of personal search of the petitioner, 90 grams of heroin was recovered. 200 grams of heroin was recovered from the personal search of his co-accused Amandeep Singh, as a result of which, this case has been registered bearing FIR No. 6 dated 7.1.2015 under Section 21 / 61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1988 at Police Station Maqsudan, District Jalandhar.

Learned counsel for the petitioner contended that only 90

grams of heroin has been recovered from the possession of the petitioner which is a non-commercial quantity. The petitioner is in custody for the last more than three and a half months. Challan has already been presented. So, the petitioner deserves the concession of bail. He contended that the quantity recovered as a result of the personal search from the present petitioner and his co-accused cannot be clubbed. To support his contentions, he has relied upon cases **Vikas Kumar versus State of Punjab, Crl. Misc. No.M-13685 of 2013 decided by this Court on 29.5.2013, Amarsingh Ramjibhai Barot versus State of Gujarat 2005, AIR (SC)4248, Gurdeep Singh @ Babbi versus State of Punjab, Crl.Misc.No.M-12045 of 2015 decided by this Court on 24.4.2015 and Jafar Iqbal versus State of Punjab, SLP (Crl)No.6412 of 2011, decided by the Hon'ble Apex Court on 4.11.2011.**

On the other hand, learned State counsel contended that both the accused were coming jointly on the same vehicle. The joint recovery of heroin from both the accused falls within the definition of commercial quantity and Section 37 shall be applicable.

I have duly considered the aforesaid contentions.

It is a clear case of the prosecution that the recovery has been effected from the personal search of both the accused. It is settled principle of law that at the stage of deciding the bail application, the Court is not required to give the meticulous findings on the disputed questions of law and facts.

Learned counsel for the petitioner has relied upon the aforesaid cases in order to contend that the recovery effected from

the personal search of both the accused have to be taken separately.

Learned State counsel has not been able to cite any authority to the contrary. In this manner, the recovery of 90 grams of heroin effected from the personal search of the present petitioner is certainly a non-commercial quantity and provisions of Section 37 of the Act are not applicable. The petitioner is in custody for the last more than three and a half months. The investigation is already complete. Further detention of the petitioner will not serve any purpose as the conclusion of the trial will certainly take time.

So, the present petition is hereby allowed. Petitioner-Baldev Singh is ordered to be released on bail on furnishing of requisite bail bonds to the satisfaction of the Chief Judicial Magistrate, Jalandhar.

April 29, 2015
ps

(DARSHAN SINGH)
JUDGE

CRM-M-7137-2015

BALDEV SINGH

Versus

STATE OF PUNJAB

*** * ***

At this stage, it has been brought to my notice that due to typographical mistake, CJM, Kaputhala has been mentioned instead of CJM, Jalandhar in the bail order of even date passed in this case which requires correction. Necessary correction mentioning Chief Judicial Magistrate, Jalandhar instead of Chief Judicial Magistrate, Kapurthala is hereby made in the original order itself.

April 29, 2015
ps

(DARSHAN SINGH)
JUDGE