

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

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**CRM-M-23993-2020
Date of Decision : 14.09.2020**

Manjinder Singh @ Manjinder Pal Singh @ Soni @ BabaPetitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. T.P.S. Bhatti, Advocate
for the petitioner.

Mr. Harbir Sandhu, Asstt. AG, Punjab
for the respondent-State.

ARUN KUMAR TYAGI, J. (Oral)

The case has been taken up for hearing through video conferencing.

The petitioner has filed the present (third) petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.137 dated 08.06.2017 registered under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') at Police Station Chheharta Commissionerate, District Amritsar.

Briefly stated the facts relevant for disposal of the present petition as alleged in the above-said FIR are that on 29.05.2006, when police party headed by Inspector Sukhwinder Singh was present on the bridge of a canal minor in the area of Dhun Dhaewala at about 1:00 a.m. (mid night) a white colour vehicle came from the side of village Gharkha/Karmuwala and on seeing the police party the driver of the car tried to escape from there. The police party chased the said vehicle. The driver of the vehicle fled from the spot and co-passenger (petitioner) was apprehended on the spot. On search 260 grams heroin was recovered from polythene taken out by the petitioner from the pocket of his kurta with intent to throw the same.

The petitioner filed two petitions for grant of regular bail earlier which were dismissed as withdrawn vide orders dated 02.07.2018

and 15.03.2019 respectively.

The petitioner, who is in custody since 08.06.2017, has filed the present third petition for grant of regular bail.

Petition has been opposed by learned State Counsel in terms of reply filed by way of affidavit of Sh. Sikander Singh, PPS, Deputy Superintendent of Police, STF Border Range, Amritsar through email print out of which is taken on record.

Learned State Counsel has also filed custody certificate through e-mail print out of which is also taken on record.

I have heard learned Counsel for the petitioner and learned State Counsel and gone through the record.

Learned Counsel for the petitioner has argued that the petitioner has been falsely implicated in the case. Mandatory provisions of the NDPS Act were not complied with. No independent witness was joined. Search was also conducted by the Investigating Officer himself. The petitioner is involved in one more case under the NDPS Act but he is on bail in the said case. The trial is likely to take long time due to restrictions imposed to prevent spread of infection of Covid-19. No useful purpose will be served by keeping the petitioner in custody. Therefore, the petitioner may be ordered to be released on regular bail.

On the other hand, learned State Counsel has argued that the recovery of commercial quantity of 260 grams of heroin was made from the polythene held by the petitioner. The petitioner is involved in one more case under the NDPS Act. In view of gravity of offence, the petitioner does not deserve the concession of regular bail. Therefore, the petition may be dismissed.

Keeping in view the facts and circumstances of the case, nature of accusation and evidence against the petitioner, applicability of rigors of Section 37(1)(b) of the NDPS Act, absence of material to enable this Court to prima facie hold that the petitioner has not committed the offence in question and that the petitioner will not commit any other offence under the NDPS Act in future if released in bail and also the fact that the trial can be expedited on easing out of the restrictions imposed to prevent spread of infection of Covid-19, I am of the considered view that the petitioner does not deserve the concession

of regular bail.

In view of the above, the present petition for grant of regular bail to the petitioner is dismissed.

However, in view of the observations made by Hon'ble Supreme Court in *Doongar Singh Vs. State of Rajasthan 2018 (1) RCR Criminal 256, State of U.P. Vs. Shambhu Nath Singh and others, 2001 (2) R.C.R. (Criminal) 390, Hussain and another Vs. Union of India 2017(2) RCR Criminal 312* and *Thana Singh Vs. Central Bureau of Narcotics 2013(1) R.C.R(Criminal) 861*, the trial Court is directed to expedite the disposal of the case after easing out of the restrictions imposed to prevent the spread of Covid-19 by conducting trial on day to day basis by allocating block of dates for the trial as directed by Hon'ble Supreme Court and by issuing coercive process for securing presence of the witnesses.

In case of non-appearance of official witnesses, the trial Court shall take appropriate action against the concerned police officials absenting without any lawful excuse by filing complaint under Section 174 of the Indian Penal Code, 1860 or taking proceedings under Section 350 of the Cr.P.C. against them.

The observations made by this Court are strictly for the purpose of disposal of the present petition and nothing in this order shall be treated as expression of any opinion on merits of the case so as to bind or influence the trial Court in adjudication of question of guilt or innocence of the petitioner.

A copy of this order be sent to the trial Court concerned for requisite compliance.

14.09.2020

Kothiyal

(ARUN KUMAR TYAGI)
JUDGE

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