

Sr.No.202

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

**CRM-20896-2020 in/and
CRM-M-44868-2019(O&M)
Date of decision:18.09.2020**

Gurpal Singh @ Bunty

... Petitioner(s)

versus

State of Punjab

... Respondent (s)

Coram: Hon'ble Mr. Justice Jasgurpreet Singh Puri

Present: Mr. Parminder Singh Sekhon, Advocate
for the petitioner.

Mr. Ashok Pathak, Addl.AG, Punjab.

Jasgurpreet Singh Puri, J.(Oral)

CRM-20896-2020

Present application has been filed for pre-poning the date of hearing of the main case from 27.10.2020 to any early date.

For the reasons mentioned in the application, the same is allowed. Date of hearing of the main case is pre-poned to today itself.

CRM-M-44868-2019

Present petition has been filed for seeking regular bail in FIR No 151 Dated 2017 for the offences punishable under Sections 21 and 29 (added later on) of Narcotic Drugs and Psychotropic Substances Act (Act 61 of 1985) registered at Police Station City Sangrur, District Sangrur.

Learned counsel for the petitioner has submitted that in the present case the petitioner has been falsely roped up and the same was done in view of the fact that he was earlier convicted in number of cases, therefore, his name has been falsely implicated in the present case. Learned

counsel for the petitioner has submitted that the petitioner has never been involved in any NDPS Act case and he is in custody for 01 year 01 month and 25 days in the present case. He has further submitted that after completion of the investigation, the challan was filed and the charges have already been framed in December, 2019 and still no prosecution witness has been examined by the State. Learned counsel for the petitioner has further submitted that even otherwise, the alleged recovery from the petitioner was only 23 gms of heroine which falls in the non-commercial quantity under the NDPS Act. He has further submitted that so far as the other cases which have been shown in the custody certificate, the same do not pertain to the NDPS Act and further submitted that petitioner has already undergone punishment in all those cases. Learned counsel for the petitioner has further prayed that especially in view of the fact that the alleged recovery was non-commercial in nature petitioner may be considered for grant of regular bail.

Learned State counsel has placed on record the Custody Certificate of the petitioner which is directed to be tagged alongwith the main case. He has submitted that it is correct that petitioner has been in custody for 01 year 01 month and 25 days and the alleged recovery was of a non-commercial quantity of 23 gms of heroine. However, he has opposed the regular bail on the ground that due to the conduct of the petitioner as he was involved in about 16 cases, petitioner is not entitled for grant of bail. It is not disputed that the petitioner has already undergone the sentences in all those cases.

I have heard the learned counsel for the parties and perused the available record. So far as the factual position is concerned the custody period of the petitioner is not in dispute and it is also not disputed that the

alleged recovery was of 23 gms of heroine which is a non-commercial quantity and also that the charges were framed way back in December, 2019 but no prosecution witness has been examined till date. So far as the objection taken by the learned State counsel with regard to the conduct of the petitioner the same would not have any weight in view of the fact that all those cases were of the year 2014 and petitioner has already undergone sentences in all those cases and therefore, petitioner would not be disentitled on this ground. The charges were framed way back in December 2019 but no prosecution witness has been examined till date.

Keeping in view the above facts and without expressing any opinion on the merits of the case, the present petition is allowed. After considering the totality of the circumstances of the case, this Court is of the considered opinion that it would be in the interest of justice, to admit the petitioner to bail. Petitioner is granted the concession of regular bail. She be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the concerned Trial Court/Duty Magistrate.

18th September, 2020

Shivani Kaushik

[JASGURPREET SINGH PURI]

JUDGE

Whether speaking/reasoned *Yes/No*

Whether Reportable *Yes/No*