

CRM-M-5249-2020 (O&M)

THROUGH VIDEO CONFERENCE

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

CRM-M-5249-2020 (O&M).

Decided on: August 4, 2021.

Rajesh Kumar

.. Petitioner

VERSUS

State of Punjab

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

**PRESENT Mr.Vivek Salathia, Advocate,
for the petitioner.**

Mr.Randhir Singh Thind, DAG, Punjab.

JASGURPREET SINGH PURI, J.

The present petition has been filed under Section 439 of the Code of Criminal Procedure, seeking regular bail in FIR No.0234 dated 11.12.2019, under Sections 21/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Chheharta, , District Police Commissionerate Amritsar.

Affidavit of Mr.Dev Dutt, Assistant Commissioner of Police, West, Amritsar City, has been filed and the same is taken on record.

As per the FIR when Assistant Sub Inspector along with other police officials while posted at CIA Staff Amritsar City, was

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performing *naka* duty when a Swift car bearing registration No.PB-23-P-7007 arrived there which was signalled to stop but the driver of the car tried to raise the speed of the car. Thereafter, the car was stopped and one boy and one girl who were travelling in the car tried to run away from the spot after alighting from the aforesaid car and thereafter they were apprehended. The boy took out one polythene packet containing some article from his pocket and tried to throw it away and thereafter when he was asked as to why he had thrown the polythene packet, he disclosed that it contained heroin and they were searching for a customer to sell the same. The driver of the car disclosed his identity as Rajesh Kumar (**Petitioner**) and the girl accompanying him disclosed her identity as Amandeep Kaur who is also the co-accused. Thereafter, they were given legal right to be searched under Section 50 of the NDPS Act but they permitted Sub Inspector Baldev Singh to conduct the search as they had already thrown away the packet. Thereafter, the procedure under the NDPS Act was followed.

Learned counsel for the petitioner has submitted that the petitioner is in custody since 11.12.2019 and the investigation of the case is already complete and challan has already been presented. He has submitted that although the petitioner is involved in two other cases, he may be considered for the grant of regular bail.

On the other hand, Mr.Randhir Singh Thind, learned Deputy Advocate General, Punjab, while referring to the affidavit filed by the Assistant Commissioner of Police, West, Amritsar City, has submitted that during custodial interrogation the petitioner had disclosed that he and co-accused namely Amandeep Kaur were habitual of consuming heroin and

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they used to purchase the same from another co-accused namely Sajan alias Gurbhej Singh who used to supply the same after purchasing from Attari side and used to consume heroin and also sell the same to their customers. There was recovery of 100 grams of heroin which was supplied to them by the aforesaid Sajan alias Gurbhej Singh and therefore, he was also nominated as an accused. The co-accused Sajan alias Gurbhej Singh also disclosed that along with the present petitioner and Amandeep Kaur they together used to sell heroin and used to distribute the drug proceeds amongst them. An offence under Section 29 NDPS Act was also added in the present case on 26.12.2019. Learned State counsel, while referring to para No.7 of the affidavit, has submitted that health screening of the petitioner and co-accused Amandeep Kaur was conducted on 12.12.2019 at Civil Hospital, Amritsar, during which the petitioner and the co-accused had disclosed history of drug abuse by *heroin* and the proforma made by the doctor has also been attached as Annexures R-1 and R-2. He has further submitted that in the report of the sample which were received from the laboratory, it was found that the intoxicating substance was heroin and the challan has been presented before the competent Court on 09.12.2020 which is now pending trial and as of now no prosecution witness has been examined. He, while referring to para No.9 of the affidavit, has further submitted that the petitioner is involved in two other cases out of which one is pertaining to the Excise Act and the second is under Sections 21 and 29 of the NDPS Act, which are also pending trial. He has submitted that it is a case where the petitioner is a habitual offender and other case under the NDPS Act is also pending against him and on medical check up it was

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found that he was consuming heroin and apart from that, he was also selling and trading it. He has submitted that there is every likelihood that in case the petitioner is released on bail then he may repeat the offence and he may even flee from justice. The rampant menace of heroin affects the social fabric of the society and District Amritsar is a border State and as per the investigation, the source of heroine was from the Attari side which is the border area of Amritsar and therefore, the petitioner may not be granted regular bail.

I have heard the learned counsel for the parties.

From the petitioner and the co-accused who were apprehended, there was recovery of 100 grams of heroin from the polythene packet which was thrown away by the petitioner. Although, the recovered quantity is not of commercial nature but the petitioner is involved in other cases as well including one under the NDPS Act. Even in the medical record the petitioner is shown to be having consuming heroin himself. Further, no prosecution witness has been examined as well.

Consequently, finding no merit in the present petition, the same is hereby dismissed.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant only for the purpose of decision of present petition.

August 4, 2021.
raj arora

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No