

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

212+103

CRM-M-16058-2021(O&M)

Reserved on 9.11.2021

Pronounced on :17.11.2021

Sukhwinder Singh @ Bittu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Naresh Manchanda, Advocate for the petitioner

Mr. Sidakmeet Singh Sandhu, AAG, Punjab

THROUGH VIDEO CONFERENCING

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
162	30.10.2017	Kot Ise Khan, District Moga.	21, 25 and 29 of NDPS Act (Act No.61 of 1985 dated 16 th September 1985)

Incarcerating on being arrested under Narcotics Drugs and Psychotropic Substances Act, 1985 (NDPS Act), for allegedly selling commercial quantity of heroin to the main accused, has come up before this Court under Section 439 of CrPC seeking bail on the grounds that there is no legally admissible evidence to connect the petitioner with the main accused from whose possession the recovery had taken place.

2. In Para 12 of the bail application, the petitioner declares having no criminal history. Ld. Counsel for the bail petitioner states on instructions that the petitioner has no criminal past relating to the offences prescribing sentence of seven years and more, or when on conviction, the sentence imposed was more than three years. The status report also does not mention any criminal past of the accused.

3. Ld. Counsel for the petitioner contends that the custodial investigation would serve no purpose whatsoever and incarceration before the proof of guilt would cause grave injustice to the petitioner and family.

4. While opposing the bail, the alternative contention on behalf of the State is that if this Court is inclined to grant bail, such a bond must be subject to very stringent conditions.

REASONING:

5. On 30.10.2017, the investigator sent a written *ruka* to above mentioned Police Station for registration. It was stated that he alongwith police party had departed the police station in police vehicle doing patrolling and detection of crime. When they were crossing GT Road near Kot Isse Khan then at 3 p.m. they noticed one person on motorcycle and was intending to enter into GT road. However, when the said person noticed the police vehicle he perplexed and tried to take u-turn towards village Galoty. However, his motorcycle broke down. On this raised suspicion in the mind of ASI who alongwith other police officials apprehended him. On being inquired, the said person revealed his name as Krishan Singh. Subsequently, the investigator apprised him of his right under Section 50 of the NDPS Act and called DSP(I) to the spot. In the presence of the Gazetted Officer -DSP(I), he was again given option of his right under Section 50 of the NDPS Act and afterthat the Police party searched Krishan Singh alongwith his motorcycle. From the red light of the motorcycle, the police detected one heavy polythene black pouch, when opened had *heroin* in it. On weighing, it was found 520 grams. Subsequently, the investigator completed procedural requirements under NDPS Act and Cr.P.C. and arrested the accused. In the interrogation of the accused, he disclosed that he had purchased *heroine* from Sukhpreet Singh. A perusal of the petition reveals that FIR was registered wayback on 30.10.2017 and police report stood filed. It is not the case of the petitioner that he has not received the copy of the police report under Section 207 Cr.P.C. Despite that the said police report has not been placed on record

6. Had the accused not received the documents in compliance with S. 207 CrPC, this Court would have certainly asked the respondent to produce the same. However, the petitioner does not claim the non-receipt of the challan. The accused receives copies of the Police report and the copies of the statements of witnesses free of cost.

7. The petitioner stood named in FIR. The allegations in the case are serious and offence heinous. To decide the bail petition on merits would require this Court to peruse the evidence collected by the prosecution. The petitioner neither annexed the copy of the police report filed under Section 173(2) CrPC nor does he say that the Trial Court did not supply the same to him under S. 207 CrPC. Even there is no ground pleaded or explanation offered that constrained the petitioner from filing it with the petition. Thus, the Court cannot decide the bail petition.

8. Given above, in the facts and circumstances peculiar to this case, the petition is dismissed. However, the petitioner shall be at liberty to file a new

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petition on the same cause of action by annexing a copy of the police report, etc.

Dismissed.

As the main petition stands dismissed, all pending misc. applications stands disposed of.

(ANOOP CHITKARA)
JUDGE

November 17, 2021
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Whether speaking/reasoned	Yes/ No
Whether reportable	Yes /No