

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

CRM-M-19148-2021 (O&M)

Date of decision: 28.10.2021

GURWINDER SINGH @ BABA

...Petitioner

V/S

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Vishal Sharma, Advocate for
Mr. SS Aviraj, Advocate, for the petitioner.

Ms. SaminaDhir, DAG, Punjab.

(Presence marked through video conference).

ARUN MONGA, J. (ORAL)

CRM-24616 and 28272-2021

Applications are allowed, as prayed for.

Documents are taken on record, subject to all just exceptions.

CRM-34454-2021

This is an application filed under Section 482 Cr.P.C. for placing on record amended bail petition and addition of Section 411 of IPC, which has been added later on by the police during investigation.

Application is allowed, as prayed for.

Main case

This is second foray of the petitioner before this Court, seeking regular bail in FIR No. 176 dated 19.11.2019 registered under Section 21 of NDPS Act, Section 25 of Arms Act and Section 411 IPC, at Police Station Batala, District Gurdaspur.

2. Per FIR, on 19.11.2019, petitioner and three other co-accused were travelling in a white coloured car, which was intercepted by the police officials. One country made pistol of .32 bore with 6 live cartridges was recovered from the pocket of the petitioner and 260 grams heroin and one

country made pistol of 32 bore along with 7 live cartridges was recovered from co-acused Ajay @ Ajay Masih.

3. Petitioner was arrested from the spot and has been in custody ever since.

4. Learned counsel for the petitioner contends that the petitioner is simply unfortunate to have been in the company of the other co-accused. He is suffering the consequences of his bad company, for which he has already undergone an incarceration of more than 1 year and 11 months.

5. He argues that if granted the concession of bail, petitioner will not misuse the same and abide by any terms and conditions that may be imposed on him. He further argues that the alleged recovery from the petitioner has been planted upon him as the petitioner has been falsely implicated in the present case. In any case, whatever was to be recovered, has already been done and there is nothing more to be recovered from the petitioner.

6. He also argues that neither any Gazetted Officer was associated at the time of recovery nor any independent witness was joined. It is further contended that investigation in the case is complete and challan has been presented, conclusion of trial will take long time.

7. Learned counsel for the petitioner also argues that petitioner is entitled to regular bail on the basis of parity also, as co-accused Jugraj Singh has already been granted the concession of regular bail vide order dated 04.03.2021 passed in CRM-M-18277 of 2020 contained at Annexure P-2.

8. Per contra, learned State counsel opposes the bail plea. She argues that petitioner is a habitual offender.

9. I have heard the rival contentions of the respective learned counsels.

10. The contentions of learned counsel for petitioner, as noted aforesaid, may have substance but same can only be adjudged at the trial. But the trial is not likely to conclude soon in view of the situation arisen due to pandemic. The investigation is already over and charges have been framed. The case before the trial court is now fixed for prosecution evidence.

11. All the prosecution witnesses are police officials. There thus seems no apprehension that petitioner would influence or pressurize the witnesses.

12. Considering the overall scenario and also granting the concession of parity, without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep the petitioners in further preventive custody.

13. Accordingly, petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court where his case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.

14. It is, however, made clear that in case the petitioner is found involved in any other FIR while on bail, the prosecution shall be at liberty to seek cancellation of his bail.

28.10.2021
vandana

(ARUN MONGA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No