

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH
(222)**

**CRM-M-22682-2021
Date of decision:- 26.10.2021**

Kulwant Singh @ Kanta

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Salil Dev Singh Bali, Advocate
for the petitioner.

Mr. Prabhjot Singh Walia, AAG, Punjab.

...

SUVIR SEHGAL, J. (ORAL)

The Court has been convened through video conferencing due to Covid-19 pandemic.

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.182 dated 04.11.2020 under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “the NDPS Act”), registered at Police Station City Jalalabad, District Fazilka, Annexure P-1.

As per the case of the prosecution, the petitioner who was driving an unnumbered *Alto* car was apprehended and a recovery of 120 grams of Heroin and drug money of Rs.60,000/- was effected from the vehicle. Gurbhej Singh @ Bhej was the navigator who was travelling with the petitioner in the car.

Counsel for the petitioner has urged that at the time of search and seizure, mandatory provisions of the NDPS Act have not been complied with. He submits that the complainant and Investigation Officer is the same person and the entire procedure followed by him is violation of the provisions of the NDPS Act. He submits that no doubt on the basis of a disclosure statement made by co-accused, Gurbhej Singh @ Bheja, 3 Kgs. 846 grams of Heroin and one pistol besides drug money was recovered, but the same cannot be attributed to the petitioner.

Per contra, learned State counsel has opposed the petition on the basis of instructions from ASI Mukhtiar Singh and has submitted that the petitioner is involved in a number of other cases and his criminal past does not entitle him to the grant of bail. As per his instructions, challan has been presented on 30.04.2021, charge has been framed on 20.07.2021 and 02 out of 34 prosecution witnesses have been examined.

I have considered the respective submissions of counsel for the parties.

As per the information supplied by the State counsel, the petitioner is involved in the following cases:-

(i) FIR No.365 dated 26.12.2017 under Sections 22 of the NDPS Act, registered at Police Station Sadar, Ferozepur.

(ii) FIR No.06 dated 27.05.2018 under Sections 21 of the NDPS Act, registered at Police Station Arifke.

(iii) FIR No.83 dated 16.06.2002 under Sections 21 of the NDPS Act, registered at Police Station Malan Wala.

(iv) FIR No.120 dated 19.07.2003 under Sections 25/10/21 of the NDPS Act and Section 406, IPC, registered at Police Station Malan Wala.

(v) FIR No.40 dated 07.03.2004 under Section 379, registered at Police Station City, Ferozepur.

(vi) FIR No.30 dated 16.02.2005 under Sections 15/18/21 of the NDPS Act, registered at Police Station Mallan Wala.

(vii) FIR No.51 dated 06.04.2006 under Sections 21 of the NDPS Act, registered at Police Station Mamdot.

(viii) FIR No.176 under Sections 21 of the NDPS Act, registered at Police Station City, Ferozepur.

(ix) FIR No.16 dated 04.02.2010 under Sections 323, 148 and 149, registered at Police Station Mallan Wala.

A perusal of the paper-book, particularly para 12 thereof shows that a specific declaration has been made by the petitioner to the effect that he is not involved in any other case except FIR No.6 dated 27.05.2018 registered for offence under Section 21 of the NDPS Act in which he is on bail and FIR No.365 dated 26.12.2017 registered for offence under Section 22 of the NDPS Act in which he is on interim bail.

During the course of hearing on 10.08.2021, State counsel had pointed out the criminal antecedents of the petitioner. Despite a lapse of more than 2 ½ months, the petitioner has not been able to explain his involvement in the other cases or to correct the declaration.

A person, who approaches the Court with tainted hands, conceals material facts particularly relating to his antecedents is not entitled to the relief of bail. It deserves to be mentioned here, that out of the 09 other cases pending against the petitioner, 07 cases have been registered against him under the NDPS Act. Concession of bail cannot be granted to a person, who does not have a clean past.

Petition is dismissed.

It is clarified that nothing said hereinabove, shall be construed to be an expression on merits of the case.

(SUVIR SEHGAL)
JUDGE

26.10.2021
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No