

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

219-1

CRM-M No.22728 of 2021
Date of decision:22.07.2021

Deepak @ Deepu @ Bhaiya

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Sidhant Vermani, Advocate
for the petitioner.

Mr. Sandeep Singh Deol, DAG, Punjab.

SUVIR SEHGAL J. (ORAL)

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

This is the first petition filed by the petitioner under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.01, dated 02.01.2021 registered for offence under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “the NDPS Act”), (Sections 25/29 of the NDPS Act and Section 25 of the Arms Act, 1959, were added later on), at Police Station STF, SAS Nagar, Mohali, Annexure P-1.

As per the version of the prosecution, FIR, Annexure P-1, was registered on the basis of secret information that Jaspal Singh is indulging in trade and sale of intoxicating substance. Jaspal Singh was arrested and recovery of 255 grams of heroin was effected from him. On his disclosure statement, Akash Singh @ Kashi was arrested from whom 258 grams of heroin was effected, and on the basis of his statement made

during the investigation, Deepak @ Deepu @ Bhaiya (present petitioner) was arrested on 27.01.2021, from whom allegedly 600 gram heroin was purchased.

Counsel for the petitioner contends that the petitioner is neither named in the FIR nor any recovery has been effected from him, nor has he been arrested from the spot. He submits that the disclosure statement of the co-accused recorded in police custody is inadmissible in evidence. He has placed reliance upon the judgments of this Court in **Natha Singh vs. State of Haryana 2015(8) RCR (Criminal) 410; Satish Gupta vs. State of Punjab 2018(3) Law Herald 1965 and Buta Singh vs. State of Punjab 2020(2) RCR (Criminal) 595**. By making a reference to Annexure P-2, counsel contends that after the registration of the present FIR, petitioner was falsely roped in FIR No.14 dated 20.01.2021 and he was arrested therein and then involved in the present FIR. He submits that the investigation qua the petitioner is complete, challan has been presented and he is no longer required for custodial interrogation, therefore, he deserves to be released on bail.

Per contra, learned State counsel upon instructions from SI Vinod Sharma, has opposed the petition and submits that as the recovery falls in the category of commercial quantity, the bar under Section 37 is attracted and the petitioner is not entitled to grant of concession of regular bail. As per his instructions, challan has been presented on 18.05.2021, though charge is yet to be framed.

I have heard the counsel for the parties.

Considering the fact that the petitioner has been arrested on the basis of disclosure statement, the legality and veracity of which is yet to

be tested, this Court is of the prima facie view that the petitioner is entitled to be released on bail. No recovery has admittedly been effected from the petitioner, therefore, keeping the petitioner behind bars any further will not serve any purpose.

Without commenting anything on the merits of the case, the petition is allowed and the petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

It is clarified that any observation made hereinabove shall not be construed as an expression of opinion on the merits of the case.

22.07.2021

(SUVIR SEHGAL)
JUDGE

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