

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(212)

CRM-M-25468-2021
Date of decision:- 14.07.2021

Sikander Singh @ Sonu

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Kartikeya Swaroop Mehta, 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.

Petitioner has filed petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.122 dated 03.10.2020 under Sections 21, 29 and 25 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short "the NDPS Act") and Sections 25 and 27 of the Arms Act, 1954, registered at Police Station Special Task Force, Mohali Range, Ferozepur (Annexure P-1).

As per the version of the prosecution, on the basis of a secret information, Gurdeep Singh @ Kali Shooter, Lovepreet Singh @ Lavi and Sikandar Singh @ Sonu along with one unknown persons were intercepted while they were going on their motorcycles and recovery of 265 grams of

Heroin was effected from the person of the petitioner, who was arrested from the spot. The other accused ran in different directions and fired at the raiding party. One of the accused Gurdeep Singh @ Kali Shooter was also injured. Two different FIRs were registered after the occurrence.

Counsel for the petitioner submits that the recovery effected from the petitioner is marginally above the threshold limit of the non-commercial quantity prescribed in the notification issued under the provisions of the NDPS Act. He has placed reliance upon judgment passed by this Court in ***CRM-M-30452-2020 titled as Deepu Khan versus State of Punjab decided on 06.05.2021***. He submits that the petitioner was named as an accused in the second FIR viz FIR No.173 dated 03.10.2020, which has been lodged under Sections 307 and 34 of Indian Penal Code, 1860 and Section 25 of the Arms Act, 1954, registered at Police Station Mamdot and has been released on bail vide order dated 25.02.2021 (Annexure P-2) as he was neither armed with any weapon nor any overt act was attributed to him. Counsel submits that besides the said two cases, the petitioner is not involved in any other criminal matter. As per him, investigation qua the petitioner is complete, challan has been presented and the petitioner, who is in custody since 03.10.2020, deserves to be enlarged on bail.

Per contra, learned State counsel, upon instructions from SI Sukhwinder Singh, has opposed the petition on the ground that contraband recovered from the petitioner falls within the ambit of commercial quantity and the bar as contained in Section 37 of the NDPS Act is attracted. He submits that the petitioner in collusion with the other co-accused was not

only dealing in contraband but was also involved in attacking the raiding party for which the second FIR has been registered. Upon further instructions, he submits that the challan has been presented on 08.03.2021 but the charge is yet to be framed.

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

Keeping in view the fact that prohibited substance recovered from the petitioner is marginally above, the maximum limit prescribed for non-commercial quantity, this Court is of the opinion that the petitioner is entitled to be released on bail. The case of the petitioner is covered by the observations made by this Court in *Deepu Khan's case (supra)*.

Keeping in view the above facts and circumstances, period of incarceration of the petitioner, nature of allegations, gravity of offences and the fact that the trial is likely to take time to conclude, no purpose would be served by keeping the petitioner behind bars any further.

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

While being released on bail, the petitioner shall furnish an undertaking to the effect that he shall not indulge in any criminal activity. In case, he violates the undertaking, it shall be open to the prosecution to seek cancellation of bail.

It is clarified that any observation made hereinabove shall not be construed to be a reflection of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

14.07.2021
Kamal

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