

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

**CRM-M-23956 of 2020
DATE OF DECISION : 13.09.2021**

Prabhjot Singh @ Lovely

...Petitioner

versus

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. A. S. Manaise, Advocate,
for the petitioner.

Ms. Rashmi Attri, AAG, Punjab

(Presence marked through video conference).

ARUN MONGA, J. (ORAL)

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, 29 of NDPS Act, Section 411 IPC and Section 25 of Arms Act, at Police Station Batala, District Gurdaspur.

2. Per FIR, SI Sukhdev Singh, on 19.11.2019, along with other police officials in connection with special nakabandi, was on duty at Bridge Hansali Bank Colony, Batala. One white car bearing registration No. PB-65-AH-7391 coming at a high speed, with four occupants therein, was stopped by the police party. A person, sitting beside the driver and carrying one polythene envelope in his left hand, tried to throw it away. While, the rest of three persons tried to run away. However, they were all apprehended by the police party. On the basis of suspicion, an information was sent to the police station. Upon checking the polythene envelope, 260 grams of heroin was

recovered. On further search, country made pistols of along with live cartridges/magazines were recovered from the occupants of the car. From the car, two rifles of .12 bore, while from its dash board live cartridges of .32 bore (52 in number) and .30 bore (35 in number) and of .12 bore (40 in number) were also recovered and possession memo was prepared.

3. FIR was registered and all the aforesaid four persons were arrested from the spot. The petitioner was arrested subsequently on 14.12.2019 and is stated to be in custody ever since.

4. Learned counsel for petitioner submits that petitioner has been falsely implicated. He further submits that petitioner was not named in the FIR. It was only in the course of investigation, he was named by one co-accused in his custodial disclosure statement, which statement, being custodial, even otherwise is per se not admissible. Nothing was/has been recovered from the petitioner. Nor was present at the spot. 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.

5. 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 (copy of which has been tendered via e-mail). Another accused Jarmanjeet Singh @ Janu Singh has also been granted the concession of anticipatory bail vide order dated 13.08.2020 (Annexure P-3).

6. Per contra, learned State counsel opposes the bail plea. He argues that petitioner is a habitual offender as one more case is pending against him. On court query, he submits that concededly he is on bail in that case.

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

8. The contentions of learned counsel for petitioners, 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.

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

10. 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.

11. 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 trial Judge is not available, before the learned Duty Judge, as the case may be.

SEPTEMBER 13, 2021

Shalini

(ARUN MONGA)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No