

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-26718-2020 O&M)

Date of Decision: 26.03.2021

Amritpal Singh @ Amrood

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. J.S. Thakur Advocate, for the petitioner.

Mr. H.S. Sandhu, AAG, Punjab.

(Through Video Conferencing)

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure, for grant of regular bail to the petitioner in FIR No. 114 dated 17.10.2018, under Sections 22 and 29 of the NDPS Act, 1985, registered at Police Station Lambra, District Jalandhar, Rural.

The learned counsel for the petitioner has submitted that the petitioner is in custody since 14.11.2018 and the charges have been framed and out of total 9 cited witnesses 7 have already been examined and no material witness is left but formal witnesses are left. He submitted that even as per the FIR, the petitioner was not apprehended on the spot but was thereafter, arrested on production warrants. He submitted that there has been an alleged recovery of 25 injections of 2 ml each of Buprenorphine Rexogesic from Surjit Singh and not from the petitioner. He further submitted that the petitioner was falsely implicated in the present case and

has also referred to the other FIRs, which were registered against the petitioner. While referring to the reply filed by the State, the learned counsel for the petitioner has submitted that in the first FIR i.e. FIR No. 99 dated 18.10.2015 the petitioner has already been acquitted in this case and so far as the other FIRs are concerned, the same were also planted upon the petitioner, which is clear from the fact that the date of the lodging of FIRs were within a period of 5 days and so far as the present FIR is concerned, it was dated 17.10.2018, which is on the same police station, where the other FIRs were also registered. He further submitted that even otherwise also no recovery was effected from the petitioner but from the other co-accused namely Surjit Singh. He has further submitted that small quantity of 25 injections can be used for medicinal purposes. The learned counsel further submitted that the present case is covered by the judgment of this Court in ***'Sukhwinder Singh alias Vicky versus State of Punjab (P&H)' [2021 (1)RCR(Criminal) 177]***.

On the other hand, learned State counsel has submitted that it is correct that the petitioner is in custody for about 2½ years and that he was acquitted in one of the FIRs registered against him and so far as the other 4 FIRs are concerned, out of which 3 were lodged on the same date i.e. 17.10.2018 and the present FIR was also of the same date. He has, however, opposed the bail of petitioner on the ground that the alleged recovery was of a commercial quantity under the NDPS Act.

I have heard the learned counsel for the parties.

So far as the custody period of the petitioner is concerned, the

same has not been disputed by the learned State counsel and it is also not disputed that out of 9 cited witnesses 7 have already been examined and only formal witnesses are left. The petitioner was not apprehended on the spot and there was no recovery effected from him and the alleged recovery was effected from the co-accused Surjit Singh and on the disclosure statement of Surjit Singh, the provision of Section 29 NDPS Act was added. The alleged recovery was of 25 injections of 2 ml each of Buprenorphine Rexogesic and according to the learned counsel for the petitioner, the same may have been for the purpose of using for consumption for medicinal purposes. The present case would fall within the exception to bar contained under Section 37 of NDPS Act in view of Sukhwinder Singh's case (supra). Furthermore, it is not the case of the State that in case the petitioner is released on bail then he may tamper with any evidence or may influence any of the witnesses or may flee from justice.

In view of the above, the present petition is allowed. The petitioner shall be released on regular bail, if not required in any other case, subject to furnishing bail/surety bonds subject to the satisfaction of the learned trial Court/Duty Magistrate.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

26.03.2021

rakesh

Whether speaking
Whether reportable

(JASGURPREET SINGH PURI)**JUDGE**

: Yes/No
: Yes/No