

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc.-M No.29141 of 2020
Date of Decision: November 11, 2021

Sunitinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Ms.Manjot Kaur, Advocate,
for the petitioner.

Mr.Ramdeep Partap Singh, DAG, Punjab.

MANOJ BAJAJ, J. (Oral)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail, pending trial in case FIR No.109 dated 20.08.2019, under Sections 21 and 22 N.D.P.S.Act, 1985, registered at Police Station, Chamkaur Sahib, District Rupnagar, who is in custody since his arrest on 20.08.2019.

As per FIR, on 20.08.2019 at about 7.00 p.m., when the police party reached at Dhaulra Canal Bridge towards T-point Kiri Afgana, then one clean shaven person was seen standing near the cover of bushes, who on seeing the police party became perplexed and two opened heavy bags were found lying near him. He was apprehended on the basis of suspicion. On inquiry, he disclosed his name as Sunitinder Singh. Upon search of opened heavy bag, injections of Leegesic and vials of Avil were recovered and from another bag, one polythene bag was found containing heroin. On these broad allegations, the above FIR was registered.

Learned counsel for the petitioner contends that as per prosecution itself, the alleged contraband (800 injections vials of AVIL 10 mg.each, 9 grams heroin and 795 injections of Buprenorphine Leegesic-2 ml.each) were contained in two bags, which were lying in bushes and no recovery was actually effected from the petitioner. Learned counsel has argued that as per the FIR itself, the petitioner was found standing near those bags, who on seeing the police, became perplexed and tried to move away and even at that stage, he was not holding the bags. According to her, neither any independent witness was joined nor any other person was present at the place of recovery, therefore, it is evident that there is no cogent evidence to connect the petitioner with the alleged recovery. She has further pointed out that the petitioner is in custody for more than two years and though petitioner is involved in another case of similar nature, but in the said case, no recovery was effected from him. She prays for bail.

On the other hand, learned State counsel, assisted by ASI Dharam Pal, has opposed the prayer on the ground the recovered contraband falls under the commercial quantity and has referred to the reply filed by way of affidavit of Sukhjit Singh Virk, PPS, Deputy Superintendent of Police, Sri Chamkaur Sahib. He, on instructions, further states that out of total thirteen prosecution witnesses, seven have been examined. However, it is not disputed that the petitioner is in custody for the last more than two years and has produced the custody certificate by way of affidavit of Kulwinder Singh, Deputy Superintendent, District Jail, Rupnagar.

After hearing the learned counsel for the parties, considering the above background and the custodial period of the petitioner, this court is of the opinion that the further custody of the petitioner behind the bars may

not be necessary. Apart from it, the prosecution witnesses are the police officials and there does not seem to be any possibility of their being won over.

Resultantly, without meaning any expression of opinion on the merits of the case, the petition is allowed and it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate, Rupnagar.

November 11, 2021
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No