

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

CRM-M-33142-2020 (O&M)

Date of decision: 23.09.2021

Jagdeep Singh @ Jagga Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Veneet Sharma, Advocate for the petitioner.

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

H.S. MADAAN, J.

Case taken up through video conferencing.

This second petition for regular bail has been filed by petitioner Jagdeep Singh @ Jagga Singh, an accused in FIR No.101 dated 02.07.2019, for an offence under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the Act'), registered with Police Station City Patti, District Tarn Taran.

Briefly stated the facts of the case as per prosecution story are that, on 02.07.2019, a police party headed by SI Sukhraj Singh, In-charge Narcotic Control Cell, Tarn Taran, had spotted a Hero Honda motorcycle bearing No.PB09-J-3332, having two riders coming from Village Bahmaniwala side; on seeing the police party, the motorcycle driver applied the brakes abruptly and tried to turn it back but the motorcycle slipped and both the riders fell down; thereafter, they tried to

escape, however, they were apprehended and on being asked, the person driving the motorcycle disclosed his name as Jagdeep Singh @ Jagga Singh son of Sukhwinder Singh (present petitioner), whereas, the person who was pillion riding the motorcycle gave his name as Rohan Malhotra S/o Raj Kumar, R/o H.No.4/421, Gali No.7, New Abadi, Karampura, Fatergarh Churian, Amritsar; SI suspected both such persons to be carrying some intoxicant substance and wanted to conduct their personal search to which the accused stated that they desired to get their search conducted by a Gazetted Officer; Sh. Hardeep Singh, DSP, Tarn Taran was summoned to the spot; accused reposed faith in him; on instructions SI Sukhraj Singh conducted personal search of petitioner and he was found to be carrying heroin in a plastic bag placed in right pocket of the lower, which on being weighed came out to 430 gms; Rohan Malhotra was found to be carrying 120 gms of heroin in the left pocket of his pant; the samples were drawn as per rules and the remaining recovered heroin were converted into sealed parcels, which were taken into possession; the motorcycle of accused was also seized; ruqa was sent to the police station, on the basis of which formal FIR was registered; the investigation in the case started; accused were formally arrested in this case; on completion of investigation and other formalities, challan against the accused was prepared and filed in the Court.

The petitioner had moved an application before Judge, Special Court at Tarn Taran seeking regular bail. However, his such application was dismissed by the said Court, vide order dated

01.10.2019. The petitioner had filed a petition for regular bail in this case earlier. The said petition bearing No.CRM-M-46842-2019 was withdrawn by counsel for the petitioner on 04.02.2020. This is the second petition for regular bail filed in this Court on behalf of the petitioner, which is being vehemently opposed by the State counsel.

I have heard learned counsel for the parties besides going through the record.

The recovery of contraband from the present petitioner is 430 gms of heroin, which is quite substantial and comes within definition of commercial quantity, attracting bar of Section 37 of the Act. This section clearly provides that every offence punishable under the Act shall be cognizable and no person accused of an offence involving commercial quantity etc., shall be released on bail, if the petition is opposed by the Public Prosecutor, unless, the Court is satisfied that there are reasonable grounds for believing that the accused is not guilty of such offence and he is not likely to commit any offence while on bail. Keeping in view the facts and circumstances of the case, I do not find any reason to record satisfaction required by this provision. Therefore, due to bar of Section 37 of the Act, the petitioner is not entitled to grant of regular bail.

The bar of Section 37 of the Act is mandatory and it does not admit to any exception. Though, the accused is stated to be behind bars in this case for a period of more than 02 years but for that very reason, the mandatory provision of Section 37 of the Act cannot be ignored and regular bail granted to the petitioner.

Though, counsel for the petitioner raised several contentions,

submitting that the offer made by the Investigating Officer to the accused is defective and there is non-compliance with the directions issued by the Apex Court while carrying out the search of the accused and effecting recovery from them and that the IO had arrived when the search had already taken place etc., but such contentions do not have much relevance at the present juncture when the case of the petitioner for regular bail is being examined. The various factors which are required to be kept in mind while considering the case of the petitioner for grant of regular bail are the gravity and seriousness of the offence, the quantity of contraband recovered, the mandatory bar, if any, to grant of bail, the age and educational qualification and previous criminal record, if any of the accused, the chances of the accused absconding and trying to prolong the trial, the chances of his trying to influence the prosecution witnesses by giving them threat or inducement etc. The merits of the case are not to be gone into at this stage.

Under the circumstances in view of the huge quantity of contraband said to have been recovered from possession of the petitioner, the bar of Section 37 of the Act, the petitioner is not entitled to grant of regular bail. Furthermore, the apprehension expressed by the State counsel that the petitioner may turn to path of crime again if granted the concession of bail and there is likelihood of his trying to tamper with the prosecution evidence and even absconding and in the process delaying the trial, I find that no case for grant of regular bail to the petitioner/accused is made out. The instant petition is bound to fail and is dismissed accordingly.

Anything said herein above shall not be construed as an expression of opinion on the merits of the case.

23.09.2021
sumit.k

(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No