

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(107)

CRM-M-43359-2021 (O&M)

Date of decision: 11.11.2021

Shamsher Singh @ Billa

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Brijesh Nandan, Advocate for the applicant-petitioner.

Mr. Prabhjot Singh Walia, AAG, Punjab.

...

SUVIR SEHGAL, J.
CRM-37192-2021

Prayer made in the application is for preponement of the hearing of main case, which is fixed for 21.01.2022.

For the reasons given in the application, it is allowed.

The date of hearing of the main case is advanced to today and it is ordered to be taken on Board.

CRM-M-43359-2021

This is the second petition seeking grant of regular bail in FIR No.20 dated 04.02.2020, registered for offences under Sections 21 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “the NDPS Act”) and Section 25 of Arms Act, 1959, at Police Station Jhabhal, District Tarn Taran (Annexure P-1).

As per the prosecution, FIR (Annexure P-1) came to be registered on a complaint by Baldev Singh, SI on the allegation that when he was on patrolling duty in the official vehicle, he saw three youngsters exchanging something in polythene bags and on noticing a police party in uniform on an official vehicle, they started running towards a brick kiln and threw the polythene bags, which they were carrying, on the ground. The youngsters were apprehended and on enquiry, they disclosed their names as Shamsher Singh @ Billa (present petitioner), Baldev Singh @ Kali and Jaswant Singh @ Jass. In the presence of independent witness, recovery of 103 grams of heroin, .32 bore revolver and two live cartridges was effected from Jaswant Singh @ Jass; 348 grams of heroin was recovered from Shamsher Singh @ Billa (present petitioner) and 103 gram of heroin was effected from Baldev Singh @ Kali. All the three accused were arrested.

Counsel for the parties have been heard.

The recovery effected from the accused falls within the ambit of commercial quantity as per the notification issued under the provisions of the NDPS Act and the rigour of Section 37 of the Act is attracted barring grant of bail to the accused-petitioner. Reliance on orders, Annexure P-10 and P-11, does not help the petitioner as both the co-accused, Baldev Singh @ Kali and Jaswant Singh @ Jass have been released by the Trial Court on default bail. Moreover, this is the second petition preferred by the petitioner seeking grant of bail pending trial, merely three months after the dismissal of the first petition vide order dated 03.08.2021 (Annexure P-13) without their being any change in the circumstances. Filing of subsequent

petition tantamounts to seeking of review of the earlier order, which is not permissible in criminal law as has been held by the Hon'ble Supreme Court in ***Hari Singh Mann Versus Harbhajan Singh Bajwa 2001 (1) SCC 169, State of Madhya Pradesh Versus Kajad 2001 SCC (Crl.) 1520 and State of Maharashtra Versus Capt. Buddhikata 1989 Suppl. (2) SCC 605.***

Finding no merit in the petition, it is ordered to be dismissed.

It is clarified that nothing said hereinabove shall be construed to be an expression on the merits of the case.

(SUVIR SEHGAL)
JUDGE

11.11.2021
Pardeep

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes