

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(221)

CRM-M-42368-2020 (O&M)

Date of decision:- 04.10.2021

Gurpreet Singh @ Gopi

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Vipul Jindal, Advocate for the petitioner.

Mr. Prabhjot Singh Walia, AAG, Punjab.

...

SUVIR SEHGAL, J. (ORAL)

The Court has been convened through video conferencing due to Covid-19 pandemic.

CRM-31236-2021

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

Annexures P-6 to P-8 are taken on record, subject to all just exceptions.

CRM-M-42368-2020

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.21 dated 17.12.2016 under Sections 21, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short "the NDPS Act") (Sections 489-A, 489-B, 489-C of the Indian Penal Code, 1860 were added later on), registered at Police Station State Special Operation Cell (SSOC), Amritsar, District Amritsar, Annexure P-1.

As per the version of the prosecution, FIR, Annexure P-1, has been registered on the basis of a secret information and three persons namely, Malkiat Singh, Karaj Singh and Jaswinder Singh @ Jassa, were arrested. Recovery of 600 grams Heroin and Indian currency of Rs.8 lacs was effected from Malkiat Singh; Rs.4 lacs was recovered from Karaj Singh, and Rs.3,49,100/- and one mobile was recovered from accused, Jaswinder Singh @ Jassa. Their vehicle was also taken into possession.

Counsel for the petitioner has urged that though the petitioner has been named as an accused in the FIR, Annexure P-1, on the basis of secret information, yet he was neither arrested at the spot nor any recovery was effected from him. He submits that insofar as co-accused, Malkiat Singh, Karaj Singh and Jaswinder Singh @ Jassa are concerned, they were tried and have been acquitted by the trial Court vide judgment dated 24.02.2020, Annexure P-2. Reference has also been made to the affidavit dated 28.09.2021 of Deputy Superintendent of Police, State Special Operations Cell, Punjab, Amritsar, which has been filed by the State counsel, wherein, it has been submitted that the said judgment has not been challenged. Counsel submits that the petitioner was arrested on 16.04.2020 in FIR No.36 registered under Sections 29, 30 and 27-A of the NDPS Act at Police Station Gharinda, Amritsar (Rural) on the allegation that Indian and American currency has been recovered from him, on the basis of his confessional statement, which has been termed as drug money and his petition for grant of regular bail is pending before this Court. Counsel submits that the petitioner was, thereafter, named as an accused in FIR No.6

registered under Sections 21, 29 and 27-A of the NDPS Act at Police Station State Special Operations Cell (SSOC), Amritsar, when recovery of 01 k.g. Heroin and currency of Rs.23 lacs was effected on his disclosure statement. Counsel submits that the petitioner has been granted regular bail in this FIR by this Court vide order dated 06.08.2021, Annexure P-6. Counsel asserts that the petitioner, who is in custody since 07.05.2020, is no longer required for custodial interrogation as investigation qua him is complete and supplementary challan has been presented.

Per contra, learned State counsel, upon instructions from, SI, Kanwar Iqbal Singh, has opposed the petition and submitted that the prosecution is in possession of sufficient incriminating material to nail the petitioner. He submits that besides the above-mentioned three FIRs, the petitioner has been named as an accused in FIR No.20 registered in the year 2016 under Section 29 of the NDPS Act, though he could not deny the fact that the petitioner was arraigned as an accused in the said FIR on the basis of disclosure statement. Upon further instructions, he submits that supplementary challan against the petitioner has been presented on 12.10.2020, charge has been framed on 04.11.2020 and two out of fourteen prosecution witnesses have been examined.

Having considered the submissions of counsel for the parties, this Court is of the view that the complicity of the petitioner in the crime would remain debatable. This Court is prima facie of the view that the petitioner, who is in custody for more than one year and four months and as no recovery has been made from him in the present FIR, is entitled to be

released on bail as the trial is likely to take time to conclude.

Without examining the merits or de-merits of the arguments addressed by the counsel for the parties, the petition is allowed. The petitioner, namely, Gurpreet Singh @ Gopi, is ordered to be released on bail on his furnishing adequate bail/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate concerned.

It is clarified that any observation made hereinabove shall not be construed to be a reflection of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

04.10.2021
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No