

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-49866-2021 (O&M)
Date of decision: 02.12.2021

Kuldeep Singh @ Deepa

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. P.S. Baidwan, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this 2nd petition is for grant of regular bail in FIR No.0069 dated 28.07.2019 under Section 21 of NDPS Act (Section 29 of NDPS Act was added later on), registered at Police Station Special Task Force, District STF Wing (SAS Nagar, Mohalil); earlier one was dismissed as withdrawn on 07.08.2020.

Thereafter, a period of more than 01 year has lapsed and till date, the charges have not been framed.

Learned counsel for the petitioner submits that the FIR was registered on the basis of secret information that Kuldeep Singh @ Deepa (petitioner), Sarabjeet Kaur and Gagandeep Singh @ Gagan are involved in the

sale of heroin and are coming in a car and if a barrier is laid, they along with the car can be apprehended. It is further submitted that as per the police version, the police stopped the car and arrested three persons i.e. the petitioner, from whom recovery of 260 grams of heroin along with currency of Rs.2.50 lacs was effected. It is also submitted that from co-accused Sarabjeet Kaur, Gagandeep Singh @ Gagan and Karamjit Singh, recovery of 30 grams, 20 grams and 70 grams of heroin, respectively, was effected.

Learned counsel has further submitted that three aforesaid co-accused have already been released on bail by the trial Court. It is also submitted that the petitioner is in custody for the last 02 years, 03 months and 28 days and till date, charges have not been framed, therefore, it will take long time in conclusion of the trial and it will be a matter of trial whether proper procedure under Section 42 of NDPS Act was followed or not, as the recovery was effected following secret information.

Learned State counsel has filed the custody certificate dated 02.12.2021 in the Court today and submits that the petitioner is involved in three more FIRs under NDPS Act, out of which he stands acquitted in one FIR. It is further submitted that due to COVID-19 situation, though the challan stands presented, however, the charges are yet to be framed, therefore, no prosecution witness has been examined.

In reply, learned counsel for the petitioner has submitted that since the petitioner is in custody w.e.f. 28.07.2019, in two FIRs, which were registered in the year 2020, after his arrest, he is nominated on the disclosure statement and he was not arrested at the spot.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering the aforesaid submissions and also in view of the fact that despite long custody of the petitioner, even the charges have not been framed, therefore, it will take long time in conclusion of the trial and it will be a debatable issue whether Section 42 of NDPS Act has been complied with or not, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

02.12.2021
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No