

CRM-M-2736-2022

Date of Decision: 27.01.2022

Bittu @ Bittu Singh

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

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

Mr. Rana Harjasdeep Singh, D.A.G., Punjab.

AMOL RATTAN SINGH, J. (ORAL)

Case heard via video conferencing.

This petition has been filed under the provisions of Section 439 of the Cr.P.C., for grant of 'regular bail' to the petitioner in case FIR No. 0074, dated 01.07.2021, registered at Police Station Sadar, District Moga, for the alleged commission of an offence punishable under the provisions of Section 22 of the NDPS Act, 1985 (with Section 29 of that Act having been added later).

Learned counsel for the petitioner submits that the petitioner was not named in the FIR and is not the person from whom any recovery of contraband was made, with his name allegedly having been disclosed in police custody by his co-accused Amandeep Singh, from whom such recovery is stated to have been made (as per the investigating agency).

He next submits that even in the aforesaid circumstances the petitioner has been in custody for almost 1½ years now.

Learned counsel for the State does not deny the aforesaid factual position though he submits that the petitioner is not entitled to bail, in view of the bar contained in Section 37 of the NDPS Act, 1985.

In view of the fact that the only allegation against the petitioner is on the basis of a disclosure statement allegedly made in police custody, with his name already being there with the police as there is another FIR registered against him, in my opinion, the case for admitting the petitioner to bail, even in terms of the provisions of Section 37 (1) (b) (ii) of the NDPS Act, 1985, is made out at this stage at least, for the purposes of this petition.

Consequently, in terms of the aforesaid provisions, the petition is allowed. The petitioner shall be admitted to bail upon his furnishing adequate bail bonds and surety bonds to the satisfaction of the learned trial court/Duty Magistrate/Chief Judicial Magistrate concerned.

However, all such observations have been made only in the context of a petition filed under the provisions of Section 438 of the Cr.P.C.; and naturally, the guilt/innocence of the petitioner would be determined by the trial court wholly on the basis of evidence led before it.

January 27, 2022

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(AMOL RATTAN SINGH)

JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

No.