

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-3587-2022 (O&M)
Date of decision: 01.09.2022

Gurpinder Singh @ Mannu

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Ms. Amarjot Kaur, Advocate for
Mr. A.S. Manaise, Advocate
for the petitioner.

Mr. S.S. Goripuria, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this 2nd petition is for grant of regular bail in FIR No.170 dated 04.12.2020 under Sections 22, 25 & 29 of NDPS Act, registered at Police Station City Khanna, Police District Khanna, District Ludhiana; earlier one was dismissed as withdrawn on 30.09.2021.

Learned counsel for the petitioner submits that new ground for filing this second petition is that the petitioner is in long custody of 01 year and 09 months and out of total 12 prosecution witnesses, only 01 PW has been examined. It is further submitted that driver of the vehicle namely Harjit Singh, from whom the recovery was effected, has been granted the concession

of regular bail vide order dated 20.01.2022 passed in CRM-M-31554-2021 and one another co-accused Rupinder Singh was also granted regular bail vide order dated 30.09.2021 passed in CRM-M-14523-2021. While granting bail to co-accused Harjit Singh, following order was passed: -

“Learned counsel for the petitioner relies upon the order dated 30.09.2021 passed in CRM-M-14523-2021, vide which co-accused Rupinder Singh has been granted the concession of regular bail. The operative part of the order reads as under: -

“...Counsel for the petitioner has argued that as per the allegations in the FIR, registered at the instance of SI Gurpartap Singh, it is stated that while on patrol duty, one Maruti Eco white colour was seen coming from the Gobindgarh side and was stopped for routine checking. The driver of the vehicle told his name as Harjit Singh, the person sitting on the co-driver seat told his name as Guprinder Singh @ Manu and the person sitting on the back seat of the car told his name as Rupinder Singh i.e. the petitioner. On search of the dashboard of the vehicle, 36 bottles of Pheniranine Maleate Injection I.P. Avil 10 ml each and 37 injections of Buprenorphine Injection I.P. Rexogensic 2 ml each were recovered. Under the driver seat, 16 strips of CLOVIDOL 100-SR each strip containing 10 tablets, total 160 tablets were recovered and 245

capsules of Parvon-Spas Plus were also recovered. It is also submitted that the petitioner has no antecedents of involvement in any other case under the NDPS Act and has, in fact, taken a lift and was not aware of the fact that the driver of the vehicle was carrying some contraband. It is further submitted that it will be a matter of trial whether the petitioner was in conscious possession of the contraband recovered from the co-accused/driver and co-passenger.

Counsel for the petitioner has also submitted that after completing the investigation and conducting the search of the vehicle as well as the personal search of the accused, a ruqa was sent to the Police Station for registration of the FIR and, therefore, it will be a matter of trial whether compliance of Section 42 of the NDPS Act has been made out or not.

Counsel for the State has not disputed the factual position but opposed the prayer for bail. It is further submitted that the charges have not been framed so far...”

For the sake of brevity, facts are not reproduced again.

Learned counsel for the petitioner submits that though the petitioner was driver of the truck, however, it will be a matter of trial whether provisions of Section 42 of NDPS Act were complied with or not.

Learned State counsel has filed the custody certificate dated 19.01.2022 in the Court today, which reflects that the petitioner is in custody for the last 01 year, 01 month and 13 days and is not involved in any other case. It is submitted that the charges are yet to be framed and thereafter, the trial will commence.”

Learned counsel further submits that though as per custody certificate dated 28.03.2022, the petitioner is shown to be involved in three FIRs under NDPS Act, however, in FIR No.63 dated 13.05.2017 under Section 22/61/85 of NDPS Act, Police Station City Batala, he stands acquitted by the competent Court on 02.07.2019 and in another FIR No.110 dated 03.05.2016 under Sections 21/22/61/85 of NDPS Act, Police Station Civil Lines Batala also, the petitioner stands acquitted on 01.12.2018, whereas in FIR No.31 dated 09.05.2018 under Section 22/61/85 of NDPS Act, Police Station Rangar Nangal, he is on bail.

Learned State counsel, on instructions from ASI Harwinder Singh, has not disputed the aforesaid factual position, however, acquittal of the petitioner in two FIRs could not be verified by the said Investigating Officer.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering the fact that the petitioner is in long custody of 01 year and 09 months; out of total 12 prosecution witnesses, only 01 PW has been examined and it is stated at bar by learned counsel for the petitioner that the petitioner stands acquitted in two FIRs under NDPS Act and also in view of the fact that two co-accused of the petitioner, including driver of

the vehicle, have already been released on regular bail, 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/Illaqa Magistrate/Duty Magistrate, concerned.

However, it will be open for the prosecution to move an application for cancellation of bail, if it is found that the petitioner is not acquitted in FIRs No.63 & 110, as stated by learned counsel for the petitioner.

01.09.2022

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[ARVIND SINGH SANGWAN]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No