

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M No.4663 of 2021

Date of Decision : 23.08.2022

Sajan Singh @ Pidli

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Nandan Jindal, Advocate for the petitioner.

Mr. Saurabh Kapoor, Addl. AG Punjab.

ALKA SARIN, J. (Oral)

This is the second petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.64 dated 18.03.2020 under Sections 21, 29, 61, 85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') and Section 25/54/59 of the Arms Act, 1959 registered at Police Station Gate Hakima, District Amritsar. The first petition for bail being CRM-M-19563-2020 was dismissed as withdrawn on 23.11.2020.

Learned counsel for the petitioner would contend that on the basis of a secret information the co-accused namely, Sohan Lal @ Sonu and Mandeep Singh, were apprehended by the Police and from their search 500 gms of Heroin each was recovered. Thereafter, on their disclosure statement, the present petitioner was apprehended and from him .32 bore country-made pistol and 20 gms of Heroin were recovered. He would further contend that the petitioner is innocent and his name has been dragged in the present case only because the Police has a personal grudge against him. It is further contended that the petitioner has now been in custody for a period of more than 2 years and 3 months. It is further the contention of learned counsel for

the petitioner that though the challan in this case was filed on 20.09.2020, however, till date not a single witness has been examined. Learned counsel for the petitioner has also contended that recovery in the present case is non-commercial in nature. He has relied upon judgment of Hon'ble Supreme Court in case of **Maulana Mohd. Amir Rashadi vs. State of UP & Anr. [2012 (1) SCC (Cri) 681]** and **Prabhakar Tewari vs. State of UP & Anr. [2020 (1) RCR (Cri) 831]** to contend that merely because other cases are pending against the petitioner would not be a ground to deny him the concession of bail.

Per contra, learned State counsel has pointed out that there are 15 other cases pending against the petitioner. He has relied upon judgments of Hon'ble Supreme Court in cases of **Narcotics Control Bureau vs. Mohit Aggarwal [2022 (3) RCR (Cri) 985]** to contend that rigors of Section 37 of the NDPS Act would apply in the present case.

I have heard learned counsel for the parties.

In the present case the recovery from the petitioner is admittedly non-commercial quantity of Heroin. The judgment relied upon by learned State counsel in **Mohit Aggarwal's** case (*supra*) would not be applicable inasmuch as the said case is of recovery of commercial quantity of contraband where 50000 tablets of Tramadol were recovered. Hon'ble Supreme Court in case of **Maulana Mohd. Amir Rashadi** (*supra*) has held as under :

“6) It is not in dispute and highlighted that the second respondent is a sitting Member of Parliament facing several criminal cases. It is also not in dispute that most

of the cases ended in acquittal for want of proper witnesses or pending trial. As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

In case of **Prabhakar Tewari** (*supra*), it has been held by Hon’ble Supreme Court as under :

*“7. On considering the submissions of the learned counsel for the parties. Having regard to the circumstances of this case, in our opinion, there has been no wrong or improper exercise of discretion on the part of the High Court in granting bail to the accused. The factors outlined in the case of Mahipal (*supra*) for testing the legality of an order granting bail are absent in the order impugned. The materials available do not justify arriving at the conclusion that the order impugned suffers from non-application of mind or the reason for granting bail is not borne out from a prima-facie view of the evidence on record. The offence alleged no doubt is grave and serious and there are several criminal cases pending against the accused. These factors by themselves cannot be the basis for refusal of prayer for bail. The High Court has exercised its discretion in granting bail to the accused Vikram Singh upon considering relevant materials. No ex-facie error in the order has been shown by the appellant which would establish exercise of such discretion to be improper. We accordingly sustain the order of the High Court granting bail. This appeal is dismissed.”*

In the present case the petitioner was arrested on 01.05.2020 and has been in custody for a period of more than 2 years and 3 months. The recovery effected from the petitioner falls under non-commercial quantity of contraband. Though the challan was filed on 20.09.2020 , the evidence is yet to begin. The trial is likely to take some time.

In view of the above and without commenting upon the merits of the case, I deem it fit to grant the concession of regular bail to the petitioner. The petitioner is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate/Trial Court concerned.

However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

Disposed off. Pending applications, if any, also stand disposed off.

23.08.2022
jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO