

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM No.M-4608 of 2022
Date of Decision: September 02, 2022

Lakhwinder singh @ Lakha

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.L.S.Sekhon, Advocate,
for the petitioner.

Mr.Navreet Kaur, AAG, Punjab
for the respondent-State.

ARCHANA PURI, J.

This is fifth petition under Section 439 Cr.P.C. for seeking post arrest bail filed by the petitioner in case FIR No.87 dated 21.07.2020 under Section 21-C of the NDPS Act and Section 207 of M.V. Act, Police Station STF Wing Phase IV, Mohali, District SAS Nagar.

Status report dated 31.08.2022 has been placed on record.

As per version of the prosecution, on the night of 20.07.2020, in pursuance of the information specifically received against Lakhwinder Singh @ Lakha-present petitioner and two others, with regard to their indulgence in drug trafficking of heroin and naka was laid. Thereafter, at the place of barricade, car bearing registration No.DL-9CP-1104 was intercepted. The person, who was driving the car, on query, disclosed his

name as 'Lakhwinder Singh @ Lakha'-present petitioner. On search of the car, 500 grams of heroin was recovered from near the gear of the car, which was taken into possession vide recovery memo. FIR was registered and the occupants including present petitioner were taken into custody.

Now, it is submitted by learned counsel for the petitioner that petitioner is behind the bars since 21.07.2020. Even though, challan has been presented but the trial is proceeding at snail's pace.

On the other hand, learned State counsel has resisted the claim for bail. He submits that the extent of recovery, so effected from the conscious possession of the petitioner and his fellow companions, falls under '**commercial quantity**' and rigors of Section 37 of the NDPS Act, as such, are attracted. Also, it is submitted by learned State counsel that even though challan has been presented but still material witnesses are yet to be examined. Out of 19 total witnesses, 7 have been examined till date.

Undisputedly, the extent of recovery, so effected, from the car driven by the petitioner, falls under '**commercial quantity**', which is much beyond the bracket of '**commercial quantity**'. Looking at the extent of recovery of heroin, so effected, in the case, rigors of Section 37 of the NDPS Act are attracted. This Section places certain restrictions on the power of the Court, while granting bail to a person, accused of having committed an offence under NDPS Act. **Apart from the grant of an opportunity to the Public Prosecutor, the other twin condition, which has relevance, so far as, the present petitioner is concerned is that there should be satisfaction of the Court that there are reasonable grounds for believing that the accused is not guilty of alleged offence and he is**

not likely to commit any offence, while on bail. Both these conditions

are cumulative and not alternative.

At this stage, there is nothing, so pointed out that there are reasonable grounds for believing that the petitioner is not guilty of an offence under the NDPS Act and that there is nothing, as such, coming on record, which rules out the possibility to conclude that the petitioner is not likely to commit the offence, while on bail.

Furthermore, much emphasis has been laid upon the detention period of the petitioner in the case in hand. However, it is pertinent to mention that length of period of his custody or the fact that chargesheet has been filed and the trial has commenced, are by themselves, no considerations that can be treated as persuasive ground for relief to the petitioner under Section 37 of the NDPS Act.

Considering the same, at this stage, no justifiable reason is made out, to extend the concession of bail to the petitioner.

Consequently, the present petition stands dismissed.

However, looking at the period of detention of the petitioner, in the case in hand and also about the number of witnesses required to be examined, a request is made to the Court concerned to conclude the trial expeditiously and dispose of the case, in accordance with law, at the earliest.

In view of the same, a copy of this order be also sent to the trial Court for necessary compliance.

(ARCHANA PURI)
JUDGE

September 02, 2022
Vgulati

Whether speaking/reasoned
Whether reportable

Yes
Yes/No