

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

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CRM-M-7667-2022 (O&M)

Date of Decision: 11.10.2022

RAKESH KUMAR

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Manu Loona, Advocate for the petitioner.

Mr. Subhash Godara, Additional Advocate General, Punjab.

HARNARESH SINGH GILL, J.(Oral)

Through this petition, the petitioner seeks regular bail in case bearing FIR No.45 dated 03.07.2021, registered under Section 21 NDPS Act and Sections 23(c), 29 NDPS Act, 1985 (added later on vide order dated 27.09.2021 passed by the learned Judge, Special Court, Fazilka), at Police Station Amir Khas, District Fazilka.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case; that though in the secret information, the petitioner was specifically named, yet the fact remains that neither any contraband nor ammunition was recovered from him; that even after the arrest of the petitioner and after his disclosure statement, no recovery was effected; that the alleged recovery was already effected by the Narcotics Control Bureau (NCB)/ Border Security Force (BSF) and that the petitioner has been in custody since 03.07.2021. He further submits that co-accused, namely, Sona Singh and Gurbinder Singh @ Gurbinder Singh, have already been granted the concession of bail by this Court on 21.01.2022 and that there is no other case registered and/or

pending against the petitioner, at least of a similar nature.

Per contra, while opposing the prayer for grant of regular bail to the petitioner, learned State counsel does not dispute the custody period of the petitioner and the fact the no recovery was effected from him. He, however, submits that the petitioner has specifically been named in the present case and that a huge recovery of 5.5 kg heroin and a pistol along with live cartridges were effected in the present case. He further submits that there are total 12 prosecution witnesses and the prosecution evidence is yet to commence.

I have heard the learned counsel for the parties.

The petitioner has been in custody since 03.07.2021. Though the petitioner was specifically named in the present case, yet no recovery was effected from him. Co-accused have already been enlarged on bail. There is no other case registered and/or pending against the petitioner, at least of a similar nature. Prosecution evidence is yet to commence. In such circumstances, the trial of the case would take a long time to conclude. Therefore, no useful purpose would be served by keeping the petitioner behind the bars.

In view of the above and without commenting anything on the merits of the case, lest it should prejudice the case of either side, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/Chief Judicial Magistrate concerned.

11.10.2022

Aman Jain

(HARNARESH SINGH GILL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No