

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

CRM-M-10319-2022 (O&M)
RESERVED ON : 23.05.2022
DATE OF DECISION : 31.05.2022

Malook SinghPetitioner

versus

State of PunjabRespondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. J.S. Sandhu, Advocate for the petitioner

Ms. Bhavna Gupta, DAG Punjab

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ALKA SARIN, J.

This is a second petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.04 dated 08.08.2019 under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) registered at Police Station SSOC Fazilka, District Ferozepur (Punjab). The first petition being CRM-M-33645-2020 was dismissed as withdrawn on 09.12.2020.

Learned counsel for the petitioner would contend that the petitioner has falsely been implicated in the case and that he has been in

custody for a period of 02 years, 09 months and 14 days. The learned counsel would further contend that there is no other case pending against the petitioner and out of eight prosecution witnesses only three stand examined. It is further the case of the learned counsel that when the alleged recovery is stated to have been made from the petitioner it was stated to be heroin, however, on receipt of the FSL Report it transpired that the same was Tramadol Hydrochloride.

The State counsel has filed the custody certificate as well as the status report by way of affidavit of Harkamalpreet Singh Khakh, PPS, Assistant Inspector General of Police, State Special Operation Cell, Fazilka wherein it has been submitted that FIR No.04 dated 08.08.2019 under Section 21/61/85 of the NDPS Act, Police State Special Operation Cell, District Fazilka was registered on the complaint of ASI Rohit Maroofia against Sukhchain Singh @ Chaina, Major Singh and the present petitioner. Thereafter, after following the due procedure of law, Sukhchain Singh @ Chaina and Malook Singh were apprehended by the Police party at the spot whereas Major Singh fled from the spot. On questioning by Jasbir Singh, Deputy Superintendent of Police, Counter Intelligence, Ferozepur, Sukhchain Singh alias Chaina stated that he had hidden heroin in a polythene packet at the back of their house near tubewell pump buried near the trunk of the guava tree and he can get the same recovered and on questioning the petitioner he stated that he had hidden heroin in a polythene packet at the back of his house buried near the wall at the south side of the house and he can get the same recovered from the spot. Thereafter,

recovery is stated to have been effected from the place as disclosed by the petitioner. The packet was sealed and after following due procedure of law was sent for FSL Report. As per the FSL Report the ingredient of the recovered powder was found to be Tramadol Hydrochloride. The learned State counsel is not in a position to deny that the petitioner has been in custody since 11.08.2019 and that there is no other case pending against the petitioner. The learned State counsel is also not in a position to deny that out of total eight prosecution witnesses only three have been examined till date.

Heard.

Keeping in view the fact that the petitioner has been in custody for a period of 02 years, 09 months and 14 days and the trial is likely to take time, no useful purpose would be served by keeping the petitioner in detention any longer. It is also to be noted that there is no other case pending against the petitioner and the petitioner is a first time offender.

Keeping in view the totality of circumstances and without commenting on the merits of the case, I deem it appropriate 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.

(ALKA SARIN)
JUDGE

31.05.2022
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<u>NOTE:</u> Whether speaking/non-speaking: Speaking Whether reportable: YES/NO
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