

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-11478-2022
Reserved on: 23.03.2022
Pronounced on: 25.04.2022

Surinder Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Ms. Gurvir Kaur Gill, Advocate for the petitioner.

Mr. Harsimar Singh Sitta, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
74	25.06.2021	Sadar Jalalabad, District Fazilka	21, 27-B of NDPS Act

1. The petitioner, incarcerated upon his arrest for possessing a intermediate quantity of heroin, in violation of Narcotics Drugs and Psychotropic Substances Act, 1985 (NDPS Act), has come up before this Court under Section 439 of Cr.P.C, seeking bail.

2. As per paragraph 10 of the bail application, the petitioner has following criminal history:

Sr. No.	FIR No.	Date	Offences	Police Station
1.	58	19.06.2009	18 of NDPS Act, 1985	Hari Ke
2.	08	23.01.2015	21 of NDPS Act, 1985	Lakho Ke Behram
3.	51	10.05.2015	21 of NDPS Act, 1985	City Jalalabad

3. Ld. Counsel for the petitioner contends that the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.

4. The contention on behalf of the State is that the petitioner has criminal antecedents, and bail encourages habitual offenders. While opposing the bail, the contention on behalf of the State is that drug menace is rapidly increasing.

REASONING:

5. In Paramjeet Singh v. State of Punjab, CRM-M 50243 of 2021, this court observed,

While considering each bail petition of the accused with a criminal history, it throws an onerous responsibility upon the Courts to act judiciously with reasonableness because arbitrariness is the antithesis of law. The criminal history must be of cases where the accused was convicted, including the suspended sentences and all pending First Information Reports, wherein the bail petitioner stands arraigned as an accused. In reckoning the number of cases as criminal history, the prosecutions resulting in acquittal or discharge, or when Courts quashed the FIR; the prosecution stands withdrawn, or prosecution filed a closure report; cannot be included. Although crime is to be despised and not the criminal, yet for a recidivist, the contours of a playing field are marshy, and graver the criminal history, slushier the puddles.

6. Prior to the present FIR, the petitioner was involved in three more similar cases. The quantity recovered in such cases was 1 kg of opium, which comes to around 40% of commercial quantity, and 50 grams of heroin, which comes to around 20 % of its commercial quantity. In the present case the quantity recovered is 100 grams of heroin, which comes to 40% of commercial quantity. The petitioner is silent about the quantity involved in the third FIR. Thus, the total quantity, when compared with commercial quantities prescribed under respective entries, misses commercial quantity by the gap of a hair. The custody in the present case is around nine and a half months. A perusal of the petition does not refer to any averment based on which this court is assured that if this recidivist is released on bail, then he shall not indulge in criminal behavior.
7. In the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner fails to make a case for bail at this stage. However, it shall be open for the petitioners to file new bail application after two months, by annexing the copies of the bail orders and other details of all FIRs pending against him or in which he stands convicted. The dismissal of this petition shall not come in the way while considering the fresh petition(s).
8. Any observation made hereinabove is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

Petition dismissed in aforesaid terms. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

25.04.2022
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.