

210-2

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-15172-2021 (O&M)
Date of decision-07.03.2022

Ajit Singh

...Petitioner

Vs.

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Yashpal Thakur, Advocate for the petitioner.

Mr. Ramdeep Partap Singh, DAG, Punjab.

MANOJ BAJAJ, J.

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail in case FIR No.01 dated 17.06.2018 registered under Sections 18, 21, 22 (29 added subsequently) of NDPS Act, 1985 and Sections 420, 465, 468 and 471 of IPC, 1860 at Police Station Patara, District Jalandhar Rural, Punjab.

The contents of the FIR as noticed by the learned Judge, Special Court, Jalandhar in order dated 03.07.2020 reads as under:-

“..... on 17.06.2018, Inspector Harinder Singh alongwith other police officials was present at canal minor bridge in the area of Kapur Pind, where he

received a secret information that Ajit Singh @ Jeeta son of Harjinder Singh, Davinder Singh @ Dev S/o Harbhajan Singh, Gurbax Singh son of Pargat Singh and Tarlochan Singh son of Harjinder Singh are indulging in smuggling of heroin and other intoxicant drugs and they use to send the drugs through courier to foreign country. Informer further informed that the above said accused used to send the drugs to foreign country by concealing the same in Cauldron (Karahi). As the information was from reliable source, ruqa was sent to the police station and formal FIR was registered. As per the information received, one vehicle bearing No.RJ-13-CB-0504, make Treno came from the side of Jaitewali, which was signaled to stop. The driver on interrogation disclosed his name as Davinder Singh @ Dev and the person sitting on the conductor seat disclosed his name as Ajit Singh @ Jeeta. Investigation Officer apprised the accused about their legal right to get conducted their search from a Gazetted Officer or Magistrate, but they suffered non-consent statement that their search be conducted in the presence of some Gazetted Officer. Thereafter, Balwinder Iqbal Singh DSP was called at the spot. Even DSP apprised the accused about their legal right and accused suffered consent statement in his favour. Thereafter, the search of the vehicle was conducted. From the vehicle 06 Kg Opium and 05 Kg Cetamine was recovered.”

Learned counsel for the petitioner has argued that the alleged contraband (06 Kg Opium and 05 Kg Cetamine) was recovered from vehicle bearing No.RJ-13CB-0504, which was being driven by co-accused Devender Singh @ Dev whereas petitioner was only a passenger and therefore, the said

recovery cannot be attributed to him. According to him, it cannot be said that the petitioner was in conscious possession of the alleged Narcotic substance and as the trial is not making any progress, therefore, considering his custodial period, his further custody may not be necessary. He has further drawn the attention of the Court to the certificate Annexure P-2 to contend that the petitioner is a heart patient. He prays for bail.

Learned State counsel assisted by ASI Bahadur Singh has opposed the prayer and argued that the recovered contraband would fall within the ambit of commercial quantity as defined under the NDPS Act and the petitioner was arrested at the time of recovery. He has further pointed out that the petitioner was previously also involved in similar nature of cases i.e. FIR No.101 dated 07.06.2014 registered under Section 21 of NDPS Act and FIR No.62 dated 15.5.2015 under Section 21 of NDPS Act, therefore, the petitioner does not deserve the concession of regular bail.

Learned State counsel has further referred to the petitioner's latest medical report dated 23.02.2022 to refute the argument regarding his ailment and submitted that the said procedure for his heart ailment was performed in 2015 and after that he is maintaining himself properly. As per the said medical report, the latest test such as ECG, ECHO, cardiography showed normal functions and the patient is being checked up regularly.

After hearing learned counsel for the parties, this Court is of the opinion that the argument raised on behalf of the petitioner that the alleged recovered contraband was not found in conscious possession of the petitioner cannot be gone into at this stage as concededly, he was arrested on the spot

when the recovery was made. Apart from it, it is the specific case of the prosecution that he was travelling in the same vehicle wherein the narcotic substance was being transported. Since the trial is in progress and the prosecution is yet to finally discharge the onus, therefore, at the stage, it cannot be said that the petitioner has been falsely implicated. Further the other argument raised in respect of the ailment of the petitioner is also without any merit as there is nothing on record much less in Annexure P-2 to indicate that the petitioner requires immediate medical attention, who is admittedly getting follow up treatment regularly.

Thus, without expressing anything on the merits of the case, considering the nature, quantity of contraband and seriousness of the offence, no case is made out for releasing the petitioner on bail.

The present petition stands dismissed.

(MANOJ BAJAJ)
JUDGE

07.03.2022
geeta

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No