

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

208

CRM-M-13885-2020 (O&M)
Date of Decision: 28.10.2022

Gourav Chouhan

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. Ruhani Chadha, Advocate
for the petitioner.

Mr. Gurpreet Singh Sandhu, D.A.G., Punjab
for the respondent-State.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioner has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.209 dated 26.12.2019 registered under Sections 21 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act') at Police Station Kartarpur, District Jalandhar Rural.

Brief facts of the case are that on 26.12.2019 the police party headed by ASI Parwinder Singh received secret information that the petitioner along with co-accused Sanjeev Kumar @ Pamma, who are engaged in the smuggling of heroine at large scale, are coming towards main G.T. Road Kartarpur and if nakabandi got conducted the accused persons can be apprehended. On the basis of said information, the police apprehended the petitioner and on search 1.5 kg of heroin was recovered from him.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. The mandatory provisions of the NDPS Act were not complied with in the present case. The petitioner is not involved in any other case. The petitioner is in custody since 26.12.2019. The challan was filed before the trial Court on

04.06.2020, however, the charges are not framed so far. The trial is moving at snail's pace which is not likely to be concluded in near future. No useful purpose will be served by further detention of the petitioner in custody. On this premise, learned counsel prays for the grant of bail to the petitioner. In support of his arguments, learned counsel for the petitioner has placed reliance upon the order of Hon'ble Supreme Court passed in *Special Leave to Appeal (Criminal) No.7871 of 2021 titled as 'Sushil Biswas Vs. The State of West Bengal' on 08.12.2021* and order of this Court passed in *CRM-M-37676-2020 titled as 'Harwinder Singh Vs. State of Punjab' on 20.05.2022*.

Per contra, learned State counsel opposed the present petition in terms of status report filed by way of an affidavit dated 06.12.2021 in the Registry which is taken on record. Learned State counsel submits that the contraband recovered from the petitioner falls under the category of commercial quantity.

Custody certificate dated 27.10.2022 has been filed by learned State counsel which is taken on record. As per the custody certificate the petitioner also involved in one another case i.e. FIR No.174 dated 29.12.2019 under Section 379-B of the Indian Penal Code, 1860 registered at Police Station Basi Bawa Khel, District Jalandhar which is pending.

I have heard learned counsel for the petitioner as well as the learned State counsel and gone through the paperbook.

According to the prosecution, during investigation the petitioner got recorded his disclosure statement on 28.12.2019 that he and Sanjeev Kumar @ Pamma together do the business of selling heroin. The heroin is brought by them from the persons sent by Pushpinder Singh @ Noni and Gurjant Singh @ Bholu who are confined in Nabha Jail. The heroin is then supplied by them to the persons told by Pushpinder Singh @ Noni and Gurjan Singh @ Bholu.

So far as, the argument of learned counsel for the petitioner that the petitioner is in custody for last about 03 years is concerned, Hon'ble Supreme Court in its judgment passed in *Narcotics Control*

Bureau Versus Mohit Aggarwal, Crl.A. No.1001-1002 of 2022, decided on 19th July, 2022 has observed that custody period itself alone cannot be a ground for grant of bail.

Keeping in view the facts and circumstances of the case, nature of accusation and evidence against the petitioner, the fact that the contraband recovered from the petitioner falls under the category of 'commercial' quantity which attracts rigors of Section 37(1)(b) of the NDPS Act and involvement of the petitioner in another case, I am of the considered view that the petitioner does not deserve the concession of regular bail.

In view of the above, the present petition is dismissed.

28.10.2022

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**(ASHOK KUMAR VERMA)
JUDGE**

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No