

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

**CRM-M-27075-2021**

**Date of decision : 04.07.2022**

**Kuldeep Singh @ Tittu**

**....Petitioner**

**Vs.**

**State of Punjab**

**...Respondent**

**CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ**

Present: Mr. Rakesh Sobti, Advocate for the petitioner.

Mr. Ramandeep Singh Sandhu, Sr.DAG, Punjab.

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**MANOJ BAJAJ, J.**

Petitioner has filed this petition under Section 439 Cr.P.C for grant of regular bail pending trial in case FIR No.57 dated 16.03.2019 under Section 21 Narcotic Drugs and Psychotropic Substances Act, 1985 (Sections 22, 29 and 31 NDPS Act added later on) registered at Police Station Division No.6, District Ludhiana, who is in custody since his arrest on 16.03.2019.

As per the prosecution case, on 16.03.2019, when Police party was present near Partap Chowk, Ludhiana in connection with patrol duty, a secret information was received that Kuldeep Singh @ Tittu (petitioner) and Palwinder Singh, who are indulged in business of selling of heroin, would be coming on motorcycle. Acting upon the same information, nakabandi was done and accused persons were apprehended. Upon search 230 grams heroin was recovered from the tool box of the motorcycle, which was driven by Palwinder Singh whereas 800 grams of heroin was recovered from the conscious possession of Kuldeep Singh.

Learned counsel for the petitioner has argued that as per

prosecution, Palwinder Singh and petitioner (Kuldeep Singh) were arrested for allegedly keeping in their possession 230 grams and 800 grams of heroin, respectively. He submits that though the quantity recovered from the petitioner falls within the commercial quantity, but the mandatory provisions of Section 50 NDPS Act were not strictly complied with as the offer for search was given by Superintendent of Police, who was called after the petitioner and his co-accused were intercepted by other police officials. He has further drawn the attention of the Court to the order dated 19.10.2019 (Annexure P-4), whereby his co-accused has been released on bail. According to him, the petitioner is in custody for the last more than three years, but the trial is not making any progress. He prays for bail.

On the other hand, learned State counsel assisted by SI Naresh Kumar has opposed the prayer on the ground that the petitioner was previously also involved in a similar case i.e. FIR No.16 dated 07.02.2018 registered under Sections 21/61/85 NDPS Act, Police Station Makhu, District Ferozepur and in this regard he has invited the attention of the Court to the custody certificate filed by way of affidavit of Kanwar Surteg Singh, PPS, Deputy Superintendent, Central Jail, Ludhiana. Learned State counsel has further argued that the case of the petitioner is distinguishable from his co-accused as the quantity recovered from Palwinder Singh was non-commercial in nature. However, it is not disputed that out of total 19 prosecution witnesses only three witnesses have been examined and after 29.11.2019, no prosecution witness has been examined. He has further argued that the recovery was effected from the jacket of the petitioner and the offer was given by Superintendent of Police which would amount to substantive compliance of Section 50 NDPS Act.

At this stage, learned counsel for the petitioner has referred to the order dated 07.03.2019 (Annexure P-5) to assert that the trial in the other case ended in conviction of the petitioner and a sentence of one month imposed upon him has already been served. According to him, presently except for this case, no other case is pending against the petitioner.

After hearing learned counsel for the parties, considering the above background and custody of the petitioner as well as stage of the trial, this Court is of the opinion that the conclusion of trial is likely to consume considerable time, as only three prosecution witnesses has been examined so far, therefore, further detention of the petitioner may not serve any useful purpose, who is presently confined in judicial custody after his arrest on 16.03.2019. Apart from it, the material witnesses are police official and at present there does not seem to be any possibility of their being won over.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

The petition is allowed.

**(MANOJ BAJAJ)**  
**JUDGE**

**04.07.2022**

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Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No