

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-30751-2021 (O & M)****Date of decision: 11.05.2022**

Lovepreet Singh alias Gora

.... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Deepak Goyal, Advocate, for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of the regular bail to the petitioner in a case FIR No.238 dated 16.05.2021 under Sections 21/22/25/29/61 of the NDPS Act, 1985 registered with Police Station City Barnala, District Barnala.

2. The brief facts of the case are that a secret informer gave information to the police that Lovepreet @ Gora, the present petitioner and co-accused Pinder Singh used to bring Heroin and another intoxicating tablets from outside and would sell the same in the area of Barnala.

3. Based on the said information, the police party reached near Grewal Palace, Garcha Road, Barnala where two persons were seen standing near the gate of the Palace having plastic envelops in their hands. Both of them were apprehended on suspicion and on being asked their names, the first one disclosed his name as Lovepreet Singh alias Gora and second as Pinder Singh.

4. At the spot, recovery of 10 grams of heroin was effected from both the accused. During interrogation, on the disclosure statements of the accused, their car bearing registration Number CH-03-A-2532 silver colour make Honda was searched from where Rs.3,55,000/- (cash) and 20 grams of heroin was recovered from both the accused. During further investigation, co-accused Pinder Singh got recovered 270 grams of heroin and the petitioner got recovered 25 grams of heroin.

5. The learned counsel for the petitioner contends that a total recovery of only 55 grams of intoxicating powder (which is a non-commercial quantity) has been shown to be recovered from the petitioner and an amount of Rs.3,55,000/- jointly from both the accused. The petitioner is in custody since 16.05.2021 and the trial of the present case is not likely to be concluded in the near future, and therefore, the petitioner deserves the concession of regular bail.

6. The learned counsel for the State, on the other hand, contends that a total recovery from both the accused is 345 grams of heroin, which is a commercial quantity alongwith cash amount of Rs.3,55,000/-, and therefore, the petitioner is not entitled to the concession of the regular bail.

7. I have heard the learned counsel for both the parties at length.

8. Admittedly, the recovery from the petitioner and his co-accused Pinder Singh was initially 30 grams and subsequently from the petitioner, 25 grams of heroin was recovered separately. Taking the prosecution case to be absolutely correct, the total recovery from the petitioner cannot exceed 55 grams. So far as the arguments of the learned counsel for the State that the entire recovery from all the accused is to be seen to examine as to whether the recovery is of commercial quantity, it may be pointed out that in various

*State of Punjab (CRM-M-23217-2012 decided on 15.10.2012), (ii) Buta Singh @ Buti versus State of Punjab (CRM-M-2349-2016 decided on 26.02.2016), (iii) Avtar Singh versus Narcotic Control Bureau Zonal Unit, Chandigarh (CRM-M-10230-2017 decided on 26.04.2017), (iv) Vicky Kaur versus State of Punjab (CRR-1785-2018 decided on 13.08.2018) (v) Daniya versus State of Punjab (CRM-M-11428-2020 decided on 19.05.2020), (vi) Gagandeep Singh @ Gagna versus State of Punjab (CRM-M-43279-2020 decided on 07.04.2021), (vii) Navdeep Kumar versus State of Punjab (CRM-M-3105-2022 decided on 01.02.2022) and (viii) Harjit Singh @ Jeeta versus State of Punjab (CRM-M-5415-2022 decided on 15.02.2022) & (ix) Sukhdev Singh versus State of Punjab (CRM-M-53872-2021 decided on 27.04.2021)”, this Court based on the judgment of the Hon’ble Supreme Court in “**Amarsingh Ramjibhai Barot versus State of Gujarat, 2005 AIR (Supreme Court) 4248**” has held that the recovery from each accused cannot be added to examine whether the total quantity recovered is of commercial or non-commercial quantity. The recovery from the individual alone is to be seen.*

9. As has already been pointed out hereinabove, the recovery from the petitioner is 55 grams of heroin only. The petitioner is also involved in one other case i.e. FIR No.13 dated 03.02.2020 under Sections 379, 406, 120-B IPC, in which the investigation is pending. The petitioner, in the present case, is in custody since 16.05.2021 and the trial is not likely to be concluded in the near future.

10. Keeping in view the aforesaid facts, the further incarceration of the petitioner is not required. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Lovepreet

Singh alias Gora is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

(JASJIT SINGH BEDI)
JUDGE

May 11, 2022
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No