

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-27881-2022

Date of Decision: 13.9.2022

Gurjeet Singh alias Toni

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. P.S.Sekhon, Advocate
for the petitioner.

Mr. Jaspal Singh Guru, AAG, Punjab

KARAMJIT SINGH, J.

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.73 dated 10.4.2022 registered for the offences punishable under Sections 21, 22 and 29 of NDPS Act at Police Station Dharamkot, District Moga.

Counsel for the petitioner submits that as per prosecution version, 25 grams of Heroin was recovered on the personal search of the petitioner on 10.4.2022 and since then, the petitioner is in custody. He further submits that the aforesaid Heroin comes under non-commercial quantity and after completion of investigation, the police has presented the challan. So, prayer is made for grant of regular bail to the petitioner.

Present petition is contested by the State counsel who has furnished the custody certificate. Reply filed by way of affidavit of Ravinder Singh, DSP, Sub Division, Dharamkot, District Moga on behalf of

respondent-State has also been filed and the same is ordered to taken on record.

State counsel submits that no doubt, 25 grams of Heroin was recovered from the personal possession of the petitioner but at the same time, 400 intoxicant tablets of Etezolam and some cash were recovered from co-accused Balbir Kaur @ Biro who is the mother of the petitioner. He further submits that the aforesaid tablets falls under commercial quantity of contraband and that after completion of investigation, challan has been presented and now the trial is to commence and as such, no ground is made out to grant concession of bail.

I have considered the submissions made by the counsel for the parties.

As per allegations recorded in the FIR, the petitioner and Balbir Kaur @ Biro were apprehended by the police on 10.4.2022 on the basis of suspicion and thereafter, Gazetted Police Officer was called at the spot and on the personal search of the petitioner, 25 grams of Heroin was recovered from the left pocket of his trouser when his personal search was conducted while one polythene bag containing 40 strips each containing 10 tablets of Etezolam 0.5 mg and some cash were recovered from Salvar worn by Balbir Kaur @ Biro. The said recovery of tablets also appears to have been effected when personal search of Balbir Kaur @ Biro was effected in the presence of Gazetted Police Officer. At this stage, it is difficult to say as to whether the petitioner was in knowledge about the aforesaid tablets which were kept concealed by Balbir Kaur @ Biro in her salvar.

In light of above, recovery of 25 grams of Heroin from the possession of the petitioner comes under non-commercial quantity of

contraband and thus, rigors of section 37 of NDPS Act are not applicable to the recovery effected from the petitioner on his personal search. As per custody certificate, the petitioner is in custody for the last more than 2 months and 24 days and after completion of investigation, the police has presented the challan. It will take considerable time for the trial to complete. Thus, no useful purpose is going to be served by prolonging the judicial custody of the petitioner.

In view of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(KARAMJIT SINGH)
JUDGE

September 13, 2022

Paritosh Kumar

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No