

CRM-M-29056-2022 (O&M)
Date of decision-15.11.2022

Gurwinder Singh @ Guri

....Petitioner

Vs.

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Amit Dhawan, Advocate for the petitioner.

Mr. Kunal Muthreja, AAG, Punjab.

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.18 dated 10.02.2020, registered under Sections 21 and 25 NDPS Act, 1985 at Police Station Sidhwan Bet, District Ludhiana Rural. The petitioner is in custody since his arrest on 10.02.2020.

As per the case of prosecution, a secret information was received by the police while on patrolling duty that Sukhchain singh @ Channu and Gurwinder Singh @ Guri (petitioner) residents of Khurshedpura used to sell '*heroin*' in heavy quantity. They were coming from the side of village Khurshedpura to City Sidhwant Bet on their Splendor motorcycle bearing No.PB-10-GD-0596 colour black for supplying the '*heroin*'. Concerned police official raised a naka and apprehended Sukhchain Singh @ Channu and the petitioner. The petitioner was holding a plastic bag and recovery of 25 grams of '*heroin*' was allegedly affected from him.

Subsequently, the petitioner and Sukhchain Singh @ Channu made their disclosure statements on 11.02.2020, revealing that they have concealed about 260 grams of narcotic powder, and it was also recovered by digging the soil alongside the pillar built beneath Sutlej River Bridge.

Learned counsel for the petitioner has argued that initially, 25 grams of '*heroin*' was recovered from the petitioner and his co-accused Sukhchain Singh @ Channu, and later on, 260 grams of intoxicant powder was allegedly recovered on their disclosure statement from an open place near Satluj River Bridge, Khurshedpura and at that stage, no independent witness was joined. According to the learned counsel, the said recovered contraband is marginally above the non-commercial quantity. He prays for bail.

The prayer is opposed by learned State counsel assisted by ASI Zorawar Singh on the ground that the recovered contraband is commercial in nature. He has further produced the custody certificate by way of affidavit of Kanwar Surteg Singh, PPS Deputy Superintendent of Central Jail, Ludhiana, to contend that the petitioner is involved in another case under NDPS Act bearing FIR No.101, dated 26.5.2016, under Sections 22-25-61-85 NDPS Act, Police Station Dakha, however, according to him, in the said case, the petitioner has already been released on bail. He, on instructions, further states that out of total 8 prosecution witnesses, only 2 witnesses have been examined so far.

At the stage, learned counsel for the petitioner has produced the judgment dated 16.03.2022 passed by Judge Special Court, Ludhiana, to contend that in other case, the petitioner stands acquitted on 16.3.2022.

After hearing the learned counsel for the parties and considering

the above background, particularly, the fact that the petitioner has been

behind the bars approximately for the last 3 years, this Court finds no reason to further detain him as the trial is likely to take considerable time to conclude, as still six prosecution witnesses remain to be examined. Apart from it, the remaining witnesses are the police officials 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 concerned.

The petition is allowed.

15.11.2022
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(MANOJ BAJAJ)
JUDGE

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