

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-48047-2022 in/and
CRM-M-30512-2022 (O&M)
Date of Decision:-19.12.2022

Narinder Kumar @ Tinka

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Naveen Sharma, Advocate for
Mr. Sumit Puri, Advocate for the petitioner.

Ms. Swati Batra, DAG, Punjab.

GURVINDER SINGH GILL, J. (Oral)

CRM-48047-2022

In view of the reasons mentioned in the application, the same is allowed and the hearing of the main petition is postponed from 15.3.2023 and is taken on board today.

CRM-M-30512-2022 (Main Case)

1. The petitioner seeks grant of regular bail in respect of a case registered vide FIR No.83, dated 17.05.2022, Police Station Division No.5, Jalandhar, under Sections 21, 29, 61, 85 of NDPS Act and Section 25 of Arms Act.

2. As per the case of prosecution, on 17.5.2022, a secret information was received by the police to the effect that Deepak Kapoor @ Deepu is into business of selling 'heroin' at a large scale and that on the given day he was proceeding on a motorcycle bearing registration No.PB-08-CU-3581 from Ghah Mandi Chowk to Baba Jagjeewan Ram Chowk for supplying 'heroin' to his customers. Pursuant to receipt of said information, the police was able to apprehend the aforesaid Deepak Kapoor @ Deepu and from whose possession 1 kilogram and 50 grams of 'heroin' apart from drug money amounting to Rs.1,72,250/- was recovered. A pistol and .32 bore magazine were also recovered from him. It is further the case of prosecution that during the course of interrogation, he disclosed that he procures 'heroin' from Gurdev Singh @ Bittu, Baba and Kaka Baba, residents of Amritsar, and further supplies the 'heroin' to Narinder Kumar @ Tinka (petitioner), Lakhu, Surinder Kumar, Ravinder Kumar, Rajinder Kumar, Manni, Goldi, Bunti, Krishan Kumar and others.
3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and was never ever found near the spot nor any recovery was ever effected from him. Learned counsel has submitted that infact it is a case where as many as 9 persons have been nominated on the basis of disclosure statements and that no authenticity can be attached to such like disclosure statements. It has further been submitted that apart from the disclosure statement, there is no other evidence to connect him with the alleged recovery and that the petitioner otherwise enjoys a clean record. Learned counsel submits that since identically situated co-accused namely Gurdev Singh @ Gurdev Bhagat @ Bittu Baba has already been granted bail

by this Court vide order dated 6.12.2022 passed in CRM-M-51138-2022, the petitioner also deserves the same concession on grounds of parity.

4. Opposing the petition, learned State counsel has submitted that since the petitioner has been specifically nominated by co-accused, his complicity is clearly evident.
5. Upon a query made by this Court, learned State counsel, upon instructions from the Investigating Officer, has informed that no call-details record in respect of any of the accused was ever collected and that the prosecution mainly banks upon the disclosure statements. It has also been informed that the petitioner as on date has been behind bars since the last more than 6 months and that challan already stands presented although no PW out of the cited 17 PWs has been examined till date. It has also been informed that the petitioner otherwise enjoys a clean record.
6. This Court has considered the rival submissions.
7. It is not in dispute that the only evidence against the petitioner is in the shape of disclosure statement of co-accused and no further evidence in the shape of call-details record etc. has been collected to establish the allegations against the petitioner. The petitioner otherwise has a clean record and is not stated to be involved in any other case. The challan already stands presented in the present case. The petitioner has been behind bars since the last more than 6 months. Conclusion of trial is likely to consume time inasmuch no PW out of the cited 17 PWs has been examined so far. Identically situated co-accused namely Gurdev Singh @ Gurdev Bhagat @ Bittu Baba has already been granted bail by this Court vide order dated 6.12.2022 passed in CRM-M-51138-2022. In these circumstances, further detention of the petitioner will

not serve any useful purpose. The petition, as such, is allowed and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

19.12.2022

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No