

CRM-M-34513-2021 (O&M)

Through video conference
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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.**

CRM-M-34513-2021 (O&M).
Decided on: January 27, 2022.

Ranjit Singh

.. Petitioner

VERSUS

State of Punjab

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

PRESENT Mr.Jagjit Pal Singh Sarao, Advocate,
for the petitioner.

Mr.Karanbir Singh, AAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 439 of the Code of Criminal Procedure, seeking regular bail in FIR No.143 dated 13.8.2019, under Sections 22 and 25 of the Narcotic Drugs and Psychotropic Substances Act, registered at Police Station City Samana, District Patiala.

Learned counsel for the petitioner has submitted that in the present case name of the petitioner has been nominated only on the ground that recovery of intoxicant substance was found from the car belonging to his brother namely Soni Singh who is co-accused in the

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present case. He submitted that as per the allegations in the FIR, a secret information was received by the police stating that the petitioner along with his two brothers namely Soni Singh and Kuldeep Singh, are involved in the trading of intoxicating substance and the police party found three cars i.e. one bearing registration number PB-13-AW-8428 make Swift Dezire, second make Swift bearing registration number PB-11-CH-2989 and third bearing registration number PB-13-BD-9500 XUV-500. As per the allegations when the police party reached the plot although nobody was present on the spot as allegedly the petitioner along with other co-accused had fled away from the spot but from the search of car bearing registration number PB-11-CH-2989, intoxicant substance was found which ultimately came out to be 38000 tablets of tramadol. The learned counsel for the petitioner has submitted that in the present case the petitioner is neither the owner of the car nor is owner of the plot/place where the cars were allegedly parked. He submitted that although there are other FIRs against the petitioner under the NDPS Act but they pertain to small quantity of poppy husk and the petitioner has been nominated in the present case only in view of the pendency of other FIRs. He submitted that another reason for implicating the petitioner in the present case was that the RC of motorcycle belonging to the petitioner was found from the dashboard of the aforesaid Maruti Swift car from which the recovery was made and the same would not be a sufficient reason to connect the petitioner with the present offence. He submitted that the petitioner has been falsely implicated in the present case only because of the reason that he is brother of one of the co-accused namely Soni Singh from whose car intoxicant substance was found. The

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learned counsel for the petitioner has submitted that the petitioner is in custody since 14.1.2021 which is more than one year and therefore, he may be considered for the grant of regular bail. He further submitted that bar contained under Section 37 of the NDPS Act, would not apply in the present case because, prima facie, there is no material available with the prosecution to connect the petitioner with the present offence even after presentation of challan.

On the other hand, learned State counsel has submitted that so far as custody of the petitioner is concerned, the same is correct that the petitioner is in custody since 14.1.2021 which is more than one year. He submitted that it is also correct that investigation of the case is already complete and challan has been presented.

On a specific query being put as to whether there was any recovery from the petitioner or not, learned State counsel has submitted that there was no recovery from the petitioner and the entire contraband was recovered from the car belonging to another co-accused namely Soni Singh and the petitioner is also not the owner of any of the three cars which have been mentioned above. On a further query being put as to whether there is sufficient material available to connect the petitioner with the alleged offence, learned State counsel has replied by saying that RC of one motorcycle belonging to the petitioner was found in the dashboard of the swift car from where contraband was recovered.

I have heard the learned counsel for the parties.

The custody period of the petitioner has not been disputed by the learned State counsel and it has also not been disputed that

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investigation of the case is already complete and challan stands presented and no recovery is to be effected from the petitioner. The question which has arisen in the present case is as to whether bar contained under Section 37 of the NDPS Act would be applicable in the present case or not. It is a case where on the basis of secret information, the police party raided the place and found three cars and 38000 tablets of tramadol were recovered from the car belonging to the other co-accused namely Soni Singh. Neither of the three car belongs to the petitioner and the petitioner is also not connected with the plot where the cars were allegedly parked. The allegation against the petitioner was that he along with other co-accused fled away from the spot and RC of the motorcycle belonging to the petitioner was found in the dashboard of the swift car from where contraband was found. The two reasons as per learned State counsel to connect the petitioner with the present case were that firstly the RC of the motorcycle belonging to the petitioner was found in the dashboard of one of the car belonging to co-accused Soni Singh who happens to be brother of the petitioner and secondly there are other cases under the NDPS Act wherein the petitioner was involved in confiscation of small quantity of poppy husk. Apart from these, two reasons no sufficient reason has been stated by the learned State counsel for the purpose of connecting the petitioner with the present offence. Although this Court would not go into the merits of this case and any observation made in this case would not affect the merits of the trial but for the purpose of considering the effect of Section 37 of the NDPS Act in the present case, two factors are required to be considered. The aforesaid two factors which have been stated by the

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learned State counsel cannot constitute a ground for connecting the petitioner per se with the present offence. It is not the case of the State that in case the petitioner is released on bail then he may influence any witness or may tamper with any evidence or may flee from justice or may repeat the offence. Therefore, so far as first ingredient of Section 37 of the NDPS Act is concerned, this Court is satisfied that at least, at this stage, a prima facie case is made out for the grant of bail and there is reason to believe that the petitioner is not guilty of the present offence and so far as second ingredient for making departure from the bar contained under Section 37 of the NDPS Act, is concerned, it is not the case of the State that in case the petitioner is released on bail then he may influence any witness or may tamper with any evidence or may abscond from justice or may repeat the offence.

In view of above, considering the totality of circumstances, this Court deems it fit and proper to grant regular bail to the petitioner. Accordingly, the present petition is allowed. It is ordered that the petitioner shall be released on bail on furnishing bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate concerned.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant only for the purpose of decision of present petition.

January 27, 2022.
raj arora

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No