

CRM-25920-2022 in/and  
CRM-M-32056-2022  
Date of decision: 28.10.2022  
Reserved on: 21.10.2022

Gursewak Singh .....Petitioner

versus

State of Punjab .....Respondent

**CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR**

**Present:** Mr. Ruhani Chadha, Advocate  
for the petitioner.

Mr. Ravinder Singh, AAG, Punjab.

**NAMIT KUMAR, J.**

**CRM-25920-2022**

Allowed as prayed for.

**CRM-M-32056-2022**

The instant petition has been filed under Section 439 Cr.P.C. seeking bail pending trial to the petitioner in a case bearing FIR No.246 dated 11.12.2020 (Annexure P-1) under Sections 21/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 and Section 25 of the Arms Act, 1959 registered at Police Station Lohian, District Jalandhar.

Status report dated 20.10.2022 by way of an affidavit of Sh. Gurpreet Singh, PPS, Deputy Superintendent of Police, Sub Division Shahkot, District Jalandhar (Rural) and custody certificate have been filed by the respondent-State are taken on record.

Brief facts of the present case are that on the basis of secret information, on 11.12.2020, 02 kg of *heroin* was allegedly recovered from co-accused Rakesh Kumar @ Kesha and Jaswinder Singh each along with one pistol each as well as five cartridges. Thereafter, accused-Rakesh Kumar @ Kesha and Jaswinder Singh suffered disclosure statement that they met Palwinder Singh @

Pinda in Kapurthala Jail and after they were released on bail, they used to contact

him on WhatsApp No. +447404461027 and +19093309590. At the instance of Palwinder Singh @ Pinda, Petitioner and Rakesh kumar had gone to Srinagar to get 04 kg of *heroin*. They also disclosed that Palwinder Singh @ Pinda is the mastermind of this racket against whom 20-22 cases of murder, snatching, attempt to murder and smuggling of *heroin* are pending and he has been handling this racket from jail itself. On the basis of such disclosure statement, production warrants of accused Palwinder Singh @ Pinda were obtained and his statement was recorded, in which he corroborated the disclosure statement suffered by Rakesh @ Kesha and Jaswinder Singh. Apart from this, he also disclosed that at his instance 01 kg each of *heroin* at the rate of Rs.20 lacs per Kg was to be sold to Jaswant Singh @ Jassa, as well as to the representative of Randeep Singh alias Toppi. Further, 500 gms of '*Heroin*' @ Rs.10 lacs was to be sold to Baljeet Singh alias Kala Sarpanch Son of Darshan Singh. He also stated that all these persons have earlier also sold almost 02 kg of '*Heroin*' brought by Jaswinder Singh.

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case and vehemently argues that as per the allegations culled out from the FIR, the co-accused Rakesh Kumar @ Kesha and Jaswinder Singh were arrested with 4 kgs of *heroin* i.e. 2 kgs each. The said co-accused person namely Jaswinder Singh was also carrying a country made pistol. He further contends that a similarly placed co-accused person namely Jaswant Singh @ Jassa has already been granted the concession of bail vide order dated 27.05.2022 passed in CRM-M-22627-2022. Further, another co-accused, namely, Randeep Kumar @ Toppi has also been granted the concession of bail vide order dated 09.08.2022 in CRM-M-34222-2022. The only distinction is that the petitioner's name came in the secret information and the name of the co-accused, who have been granted concession of regular bail were nominated on disclosure statement of co-accused. He further submits that the said co-accused were granted regular bail when they had undergone 01 year, 03 months and 18 days (in

the case of Jaswant Singh @ Jassa) and 03 months and 11 days (in the case of Randeep Singh @ Toppi) of actual custody and, whereas, the petitioner is in custody for 01 year 04 months and 01 day (486 days).

The learned State counsel, however, submits that the petitioner is involved in other two cases i.e. FIR No.33 dated 12.02.2016 under Section 279/304-A of IPC registered at Police Station Dera Bassi, District SAS Nagar and FIR No.85 dated 08.11.2016 under Section 18 of the NDPS Act registered at Police Station City-II, Abohar, District Fazilka. Further, he does not controvert the fact that the role of the petitioner is at par with said co-accused person, namely, Randeep Singh @ Toppi, to whom the concession of regular bail has already been extended.

Learned counsel for the petitioner submits that in the first case, the petitioner is on bail and in the second case, the petitioner was convicted vide judgment dated 11.07.2019 passed by the learned trial Court, whereby, the petitioner was sentenced to undergo rigorous imprisonment for 53 days along with fine of Rs.5,000/- and the said period is now over.

In so far as the involvement of the petitioner in other cases is concerned, the Hon'ble Supreme Court in 'Prabhakar Tiwari vs. State of UP' 2020 (1) RCR (Criminal) 831 as well as in the matter of 'Mohd. Azam Khan vs. State of U.P.' decided on 19.05.2022 in Writ Petition (Criminal) No. 39 of 2022 have held that mere involvement of an accused in other criminal cases cannot be a ground unto itself for denial of bail and for continued incarceration. The merits of the case where an accused has applied for bail were also required to be examined and the discretion for granting bail is to be exercised taking into consideration the merits of the case as well.

I have heard learned counsel appearing on behalf of the respective parties and have gone through the record with their assistance.

Taking into consideration the circumstances noticed above, the fact that the co-accused of the petitioner namely Jaswant Singh @ Jassa and Randeep Kumar @ Toppi has already been granted the concession of bail and since, no recovery has been effected from the petitioner, challan has been presented, the charges have been framed and the stage of trial being still the same i.e. only five witnesses having been examined till now and that the number of witnesses to be examined have increased on account of filing of supplementary challan as well as actual custody period undergone by the petitioner, I find merit that the case of the petitioner cannot be distinguished so far with his co-accused who have already been granted bail is concerned.

Accordingly, the petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing requisite bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate, concerned.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

The observation made hereinabove shall not be construed as an expression of opinion on the merits of the case and the trial Court shall decide the case on the basis of available material independently.

28.10.2022  
Neha

(NAMIT KUMAR)  
JUDGE

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