

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-33568-2022

Date of Decision:-29.09.2022

Manbir Singh @ Minta.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Roopak Bansal, Advocate for the Petitioner.

Mr. Jaiteshwar Singh, AAG Punjab.

JASJIT SINGH BEDI, J. (ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.65 dated 29.05.2020 under Sections 21, 25 and 29 of NDPS Act, 1985 registered at Police Station STF, SAS Nagar, Mohali.

The brief facts of the case are that the investigating agency received secret information that Sukhdev Singh @ Sukh, Sarban Singh, Yadwinder Singh @ Rinku, Manbir Singh (present petitioner) and Deepu in connivance with each other were doing the work of selling Heroin and supplying the same in big cities of Punjab. Out of the aforementioned persons Sukhdev Singh @ Sukh, Sarban Singh and Yadwinder Singh @ Rinku were coming on a motor cycle bearing registration number PB-06AW-8419 make Platina to supply Heroin and if a *nakabandi* was set up these persons could be apprehended with a huge quantity of Heroin. Based on the said information a *nakabandi* was set up and the aforementioned persons came to be arrested. On their arrest 300 grams of Heroin was recovered from underneath the seat of the motor cycle.

During interrogation, the accused Sukhdev Singh @ Sukh and

Sarban Singh disclosed that they had to supply this Heroin to a person on the asking of Manbir Singh @ Minta (petitioner) who was arrested in this case on 4.6.2022.

The Counsel for the petitioner *inter alia* contends that except the fact that the petitioner is named in the FIR on suspicion and subsequently on the basis of disclosure statement of his co-accused, there is no admissible evidence against the petitioner to inculcate the petitioner in the present case. He contends that prior to this FIR No.65 dated 29.05.2020 there was an earlier FIR No.86 dated 27.05.2020 in which the petitioner was arrested and granted bail vide order Annexure P-2. He contends that once the petitioner was already in custody in the FIR No.86 the question of his being involved in the subsequent FIR No.65 would not arise as the petitioner was already in custody in the earlier case. He contends that other than the present case in which no recovery has been effected from the petitioner, even in FIR No.86 no recovery has been effected from the petitioner as is clearly borne out from the order Annexure P-2 wherein recovery of 8 grams of Heroin has been effected from his co-accused Deepak Kumar Sharma. He thus contends that since the petitioner is in custody since 4.6.2022 and the trial of the present case is not likely to be concluded anytime soon, the further incarceration of the petitioner is not required and therefore he be granted the concession of bail.

The Counsel for the State on the other hand while referring to the reply dated 22.09.2022 submits that 300 grams of Heroin was recovered from the co-accused of the petitioner. The petitioner was named in the FIR on suspicion as also in the disclosure statement of his co-accused. On arrest he suffered a disclosure statement admitting that he had sold 3kgs of Heroin after taking the same from one Nishan Singh. Since he was a habitual offender and had been arrested in an earlier case he was not entitled to the grant of bail on account of the bar contained under Section 37 of the NDPS Act.

I have heard learned Counsel for both the parties at length.

Admittedly, the petitioner was named in the FIR on suspicion and subsequently in the disclosure statement of his co-accused. However, no recovery has been effected from the petitioner. Even in the earlier FIR got registered against him bearing no.86 dated 27.05.2020 the recovery of 8

grams of Heroin was already effected from his co-accused Deepak Kumar Sharma and the petitioner has been granted the concession of bail vide order Annexure P-2. In view of these facts, the rigors of Section 37 of NDPS Act can be relaxed as no recovery has been effected from the petitioner in the present case.

The petitioner is in custody since 4.6.2022 and trial of the present case is is not likely to be concluded anytime soon. Therefore, the further incarceration of the petitioner is not required, more so when co-accused of the petitioner namely Sukhdev Singh @ Sukh and Yadwinder Singh @ Rinku have been granted the concession of regular bail by this court vide orders dated 19.04.2022.

Thus without commenting on the merits of the case, the petitioner-**Manbir Singh @ Minta** son of Sh. Kulwant Singh is ordered to be released on bail subject to the satisfaction of learned CJM/Duty Magistrate, concerned.

The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing that he is not involved in any other crime other than the cases mentioned in this order.

In addition, the petitioner shall prepare FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

Petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

September 29, 2022

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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>