

CRM-M-32957-2022

Date of Decision: 31.10.2022

SUKHCHAIN SINGH @ CHAINA

... PETITIONER

V/S

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Ms. Riffi Bala Birla, Advocate for the petitioner.

Mr. Hittan Nehra, Addl. A.G. Punjab.

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VIVEK PURI, J. (ORAL)

The petitioner is seeking regular bail in case bearing FIR No. 04 dated 08.08.2019 under Sections 21/61/85 of NDPS Act, registered at Police Station Sadar Fazilka, District Fazilka.

Custody certificate has been placed on record.

Briefly, the FIR has been registered in pursuance of the receipt of secret information to the effect that the petitioner along with the co-accused namely Major Singh and Malook Singh indulged in smuggling of heroin and have connection with Pakistani smugglers. Accordingly, a raid was conducted. The petitioner along with the co-accused Malook Singh, who is his father, was apprehended on 08.08.2019, whereas Major Singh, co-accused who is stated to be brother of the petitioner managed to slip away from the backdoor of his house. In pursuance of the disclosure statement of the petitioner and his father Malook Singh, 750 gms. of heroin has been allegedly recovered from each of them at their instance.

Learned counsel for the petitioner contends that the petitioner has been falsely implicated and is in custody for a period of 3 years, 2 months and 21 days and not involved in any other case. Similarly placed co-accused namely Malook Singh has been granted regular bail by the Co-ordinate Bench of this Court in terms of the order dated 31.05.2022 passed in CRM-M-10319-2022. Out of 8 prosecution witnesses, only 4 witnesses have been examined so far. The recovery is stated to have been that of heroin but in fact the report of FSL indicate that the contraband was tramadole hydrochloride.

Learned State counsel has opposed the bail application on the score that even the quantity of tramadole hydrochloride recovered in pursuance of the disclosure statement of the petitioner falls in the category of commercial quantity and the co-accused, Major Singh who is the brother of the petitioner has been declared proclaimed offender. However, it has not been disputed that the accused namely Malook Singh has been granted bail and only 4 out of 8 witnesses have been examined so far. It has also not been disputed that even 750 gms of tramadole hydrochloride has been recovered from the co-accused Malook Singh.

The petitioner is in custody for a period of 3 years, 2 months and 21 days and not involved in any other case. The similarly placed co-accused from whom the same quantity of contraband has been recovered, has been granted bail by the Co-ordinate Bench of this Court. Consequently, the petitioner becomes entitled to bail on the principle of parity. Only 4 witnesses have been examined so far. The conclusion of trial is also likely to take some more time and no fruitful purpose would be served by detaining the petitioner in further custody.

As such, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner. Therefore, without making 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 fresh bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

The petition is allowed.

31.10.2022

Janki

(VIVEK PURI)
JUDGE

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