

CRM-M-32958-2022 (O&M)
Date of decision-15.11.2022

Gurinder Singh @ Valaiti

....Petitioner

Vs.

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Gaurav Rana, Advocate for the petitioner.

Mr. Kunal Muthreja, AAG, Punjab.

MANOJ BAJAJ, J.

Petitioner has filed this petition under Section 439 Cr.P.C for grant of regular bail pending trial in case FIR No.117 dated 31.12.2020, registered under Section 21 of NDPS Act, 1985 at Police Station City Kurali, District SAS Nagar (Mohali). The petitioner is in custody since his arrest on 02.01.2021.

The allegations contained in the above FIR and noticed by the Special Judge, SAS Nagar (Mohali) in his order dated 01.03.2021 read as under:-

“As per prosecution allegations, on 31.12.2020, a Swift car bearing registration No.PB-65-AJ-6692 was seen coming from the side of Kharar. ASI Bhupinder Singh had given a signal to the driver of the said car to stop the same. However, on seeing the police party, the driver of the car instead of stopping the car tried to flee away from the spot but the said car was stopped by ASI Bhupinder

Singh with the help of other police officials. On interrogation the driver of the car disclosed his name and whereabouts as Harpreet Singh @ Happy aged about 26 years son of Jagjit Singh, resident of Village Mundo Sangtian, Police Station Majri, Tehsil Kharar, District SAS Nagar, Mohali. The person sitting on the seat adjacent to the driver seat disclosed his name and whereabouts as Gurinder Singh @ Valaiti (bail applicant) son of Naib Singh, resident of Village Padijala, Police Station City Kurali. On checking, white colour powder wrapped in a polythene envelop kept in the rear window of driver side was found. The person sitting on the seat adjacent to the driver seat also thrown a polythene envelop in between his feet, which was also taken into police possession and on checking, white coloured powder also found to be contained in the said envelop.

Thereafter, on receiving information, SI Jasmer Singh reached at the spot and conducted further investigation. On weighment, the white powder recovered from the polythene envelop kept in the rear window of driver side comes to be 30 grams and the white powder recovered from the polythene lying in the said car underneath the feet and one Akbar who was lodged in some other case fled away from the police lock up by pushing HC Randhir Singh, No.4C/293, Kurali. Accordingly, an FIR No.0001 dated 01.01.2021, under Sections 224, 34 of IPC has also been registered against them at Police Station Kurali. Thereafter, accused Harpreet Singh was re-arrested on 01.01.2021 and the other accused Gurinder Singh (bail applicant) was re-arrested on 02.01.2021.”

Learned counsel for the petitioner has argued that as per prosecution case itself, the petitioner was carrying 32 grams of intoxicant

powder, whereas his co-accused, namely, Harpreet Singh was carrying 30 grams of '*white powder*', therefore, the said quantity recovered from the petitioner would fall within the non-commercial quantity as per the NDPS Act. According to learned counsel, further custody of the petitioner may not be justified, particularly when no prosecution witness has been examined so far out of total 13 witness. He prays for bail.

The prayer is opposed by learned State counsel assisted by ASI Avtar Singh on the ground that collectively the recovered contraband is commercial in nature as it is more than 50 grams. He has further produced the custody certificate by way of affidavit of Rajdeep Singh Brar, Deputy Superintendent of New District Jail, Nabha, to contend that the petitioner escaped from the police custody, whereupon another FIR bearing FIR No.1, dated 1.1.2021, under Sections 224 and 34 IPC, Police Station Kurali, was registered and, apart from it, the petitioner is involved in another case under NDPS Act bearing FIR No.13, dated 28.2.2019, under Sections 22-61-85 NDPS Act, Police Station Kharar. However, during the course of hearing, it is not disputed that in these two cases, the petitioner is on bail. He, on instructions, further states that charges were framed on 01.03.2021, and no prosecution witness has been examined.

After hearing the learned counsel for the parties, considering the above background, particularly the length of custody of the petitioner and the fact that the trial is yet to commence, this Court finds no reason to further detain the petitioner behind bars as trial is likely to take considerable time to conclude. The material witnesses are police officials and at present, there does not seem to be any possibility of their being won over.

Resultantly, without meaning 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 requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

15.11.2022
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(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No