

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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CRM-M-41636-2021 (O&M)
DATE OF DECISION : 23.05.2022

Pardeep Goyal

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. G.S.Kaura, Advocate, for the petitioner.

Ms. Bhavna Gupta, DAG, Punjab.

ALKA SARIN, J. (Oral):

This is the second petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.100 dated 11.07.2019 registered under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'NDPS' Act) (Section 29 of the NDPS Act, added later on) at Police Station Maur, District Bathinda, Punjab.

Learned counsel for the petitioner would contend that the first petition for regular bail filed by the petitioner being CRM-M-7127-2020 was dismissed as withdrawn by this Court vide order 17.11.2020. Learned counsel would further contend that the petitioner has been in custody since 12.07.2019. It is further the contention of the learned counsel for the petitioner that allegedly a secret information was received qua one Sunil Kumar on 11.07.2019. On the same day he was arrested. Thereafter a DDR has been recorded wherein it has been stated that statement of one Jaspreet

Singh has been recorded and he had nominated the petitioner as an accused in the present FIR. It is further the contention that strangely Sunil Kumar was arrested on 11.07.2019 who did not name said Jaspreet Singh s/o Buta Singh. Learned counsel has further contended that the said DDR has not been made a part of the challan nor the said person, namely, Jaspreet Singh, who is stated to have nominated the present petitioner as an accused, has been cited as a witness. Learned counsel would further contend that the DDR in the present case has been entered at 4.27 AM at Bathinda and the petitioner in the present case was arrested by the Bathinda Police at 6.00 AM on 12.07.2019 from Ludhiana and recovery shown from him by the Bathinda Police is on 13.07.2019 from a place allegedly disclosed by the petitioner during interrogation.

Per contra, learned counsel for the State on instructions from ASI Gurtej Singh has stated that DDR No.006 dated 12.07.2019 has been mentioned in the challan. However, she is not in a position to deny the fact that the statement of Jaspreet Singh has not been made a part of the challan nor the said Jaspreet Singh has been cited as a witness. Learned counsel has filed the custody certificate. As per the custody certificate there is no other case pending against the petitioner. Learned counsel for the State has further pointed out that the charges in the present case were framed on 07.12.2021 however no prosecution witness has been examine till date.

Heard.

In the present case the petitioner has been in custody since 12.07.2019. The statement of the person on the basis of which the petitioner was nominated has not been made a part of the challan nor the said person,

namely Jaspreet Singh, has been cited as a witness in the challan. Further, the manner in which the arrest of the petitioner has been made as also the fact that secret information was received against one Sunil Kumar and the said Sunil Kumar did not nominate the present petitioner as an accused and that one Jaspreet Singh made a statement at 4.27 AM in the morning and nominated the present petitioner as an accused and the on the basis of his statement DDR was recorded and the petitioner was thereafter was arrested at 6.00 AM, casts a doubt in the mind of this Court.

Without commenting upon the merits of the case and keeping in view the fact that the petitioner has been in custody since 12.07.2019 as also the above mentioned facts and also the fact that the trial is likely to take some time to conclude, I deem this to be a fit case to grant the concession of regular bail to the petitioner. The petitioner is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate/Trial Court concerned.

However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

Disposed off.

May 23, 2022
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(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking Whether reportable: YES/NO
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