

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

229

CRM-M-41237-2021 (O&M)

Date of Decision: 11.02.2022

Bittu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Kushagra Mahajan, Advocate, for the petitioner.

Mr. M.S.Dullat, Addl. AG, Punjab.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No.112 dated 28.06.2019 at Police Station Dharmkot, District Moga, under Sections 21, 25 & 29 of the NDPS Act.
2. As per the allegations levelled in the FIR, one Dharminder Singh was apprehended by the police, who was found in possession of 260 grams of 'heroin'.
3. Learned counsel for the petitioner submits that he was never ever found or arrested at the spot and has been nominated subsequently on the basis of a disclosure statement allegedly made by Dharminder Singh to the effect that the recovered contraband had been supplied by the petitioner. Learned counsel has further submitted that since the main accused,

namely, Dharminder Singh has already been granted bail, the petitioner also deserves the same concession on the grounds of parity.

4. On the other hand, learned State counsel has opposed the petition on the ground that the petitioner is a habitual offender having been involved in as many as 9 cases including 3 cases under the NDPS Act. Learned State counsel has, however, not disputed the fact that the petitioner has been nominated on the basis of a disclosure statement made by co-accused. It has also been submitted that the petitioner cannot claim benefit on the grounds of parity inasmuch the co-accused was extended the benefit of bail on account of violation of Section 50 of the Act, as despite the fact that '*heroin*' was recovered from the left pocket of the *Capri* worn by co-accused, he had been extended a defective offer. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last about 10 months & 27 days and that the charges are yet to be framed and as many as 15 PWs have been cited.
5. I have considered rival submissions addressed before this Court.
6. It is not in dispute that the petitioner was never ever present at the spot and has been nominated as an accused on the basis of a disclosure statement, the admissibility and veracity of which would be debatable. Although the petitioner cannot claim any parity with co-accused Dharminder Singh, who was granted bail on account of a defective offer under Section 50 of the NDPS Act having been extended to him, but at the same time, if the case against the co-accused falls to ground, the petitioner would automatically get benefit of the same.

7. The petitioner, otherwise, has been behind bars for a substantial period of about 11 months and the trial is likely to consume time for its conclusion inasmuch as the trial has not even commenced as charges have not been framed so far. In these circumstances, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

11.02.2022

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(GURVINDER SINGH GILL)
JUDGE

Whether speaking/reasoned: **Yes/No**

Whether reportable: **Yes/No**