

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-43797-2021 (O&M)
Date of Decision:-23.2.2022

Sandeep Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Kamal Narula, Advocate for the petitioner.

Mr. M.S. Dullat, Addl.A.G., Punjab.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner seeks grant of regular bail in respect of a case registered against him vide FIR No.01 dated 30.11.2017 at Police Station S.S.O.C. District Fazilka under Sections 18, 21, 25, 61, 85, 29, 30 of Narcotic Drugs & Psychotropic Substances Act and Sections 66-D and 66-F of Information Technology Act, 2000.
2. It is the case of prosecution that on 30.11.2017, a secret information was received by the police to the effect that Mukhtiar Singh @ Kali, Gurnam Singh, Surjit Singh had taken land on lease beyond the fencing area between India and Pakistan and that they smuggle '*heroin*' from across the border with the help of their agriculture equipment and pass on the same to Sammar

Singh @ Sharma and to Sandeep (petitioner). It is further the case of prosecution that upon receipt of aforesaid information, a raid was conducted and Mukhtiar Singh @ Kali and Gurnam Singh were apprehended while they were coming on their tractor and from whom 'heroin' weighing 3.2 kgs. was recovered. It is further the case of prosecution that Mukhtiar Singh @ Kali and Gurnam Singh were also accompanied by Surjit Singh but he managed to escape from the spot.

3. On 6.1.2018, Surjit Singh, who is stated to have escaped on 30.11.2017, was apprehended and from his possession 270 grams of 'heroin' and Rs.4 lakhs of drug money was recovered. It is further the case of the prosecution that subsequently Sandeep was apprehended on 9.3.2018 and 'heroin' weighing 340 grams was recovered from him.
4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and that he was never ever apprehended at the spot when the co-accused Mukhtiar Singh @ Kali and Gurnam Singh were apprehended while in possession of 3.2 kilograms of 'heroin'. Learned counsel submits that while the aforesaid FIR was lodged on 30.11.2017, the petitioner is alleged to have been apprehended by the police on 9.3.2018 and 'heroin' weighing 340 grams is stated to have been recovered from him, whereas infact no such recovery was ever effected.
5. Learned counsel for the petitioner has further submitted that the petitioner is not involved in any other case under NDPS Act previously and since another co-accused namely Sammar Singh @ Sharma has already been granted bail, the petitionier deserves the same concession on grounds of parity. Learned counsel submits that even as per the case of prosecution, when the petitioner

was apprehended on 9.3.2018, he was not carrying any contraband and that it is the case of prosecution that the petitioner suffered a disclosure statement that he had kept concealed '*heroin*' in a tractor and led the police party to the said tractor and got the '*heroin*' recovered. Learned counsel submits that no credibility can be attached to such like recovery based on the disclosure statement of the accused himself.

6. On the other hand, learned State counsel has submitted that since a 'commercial' quantity of contraband i.e. 340 grams of '*heroin*' was recovered from the petitioner, when he was apprehended and he happens to be involved in one more case registered for offence under Indian Penal Code, no case for grant of bail is made out. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last about 4 years. It has also been informed that as on date only 3 out of cited 18 PWs have been examined.
7. I have considered rival submission addressed before this Court.
8. Although the petitioner is named in FIR but it is the co-accused Mukhtiar Singh @ Kali and Gurnam Singh, who were apprehended at the spot while in possession of 3.2 kilograms of '*heroin*'. It is also not in dispute that the petitioner Sandeep Singh was apprehended on 9.3.2018 and that it was pursuant to his disclosure statement that he led the police party to the place where he had kept concealed '*heroin*' i.e. in a tractor and got 340 grams of '*heroin*' recovered. Apart from the aforesaid factum of recovery, this Court cannot overlook the fact that the petitioner has been behind bars for a substantial period of about 4 years. The petitioner is not stated to be involved in any other case under NDPS Act. Conclusion of trial is likely to consume

time inasmuch as only 3 out of cited 18 PWs have been examined 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.

23.2.2022

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No