

207 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-45214-2021
Date of Decision: 23.03.2022

Gurpreet Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Vaibhav Narang, Advocate
for the petitioner.

Mr. Sidakmeet Singh Sandhu, DAG, Punjab.

JASJIT SINGH BEDI, J.(Oral)

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail in case FIR No.31 dated 26.02.2021, registered under Sections 21(C), 25, 29 of NDPS Act, 1985 at Police Station Special Task Force, District STF Wing, Amritsar (Annexure P-1).

The allegations against the petitioner are that he alongwith his co-accused were arrested and a recovery of 255 grams of heroin was effected from the tool box of the motor-cycle, which was being driven by Gurnam Singh.

The learned counsel for the petitioner submits that the recovery has been effected from the tool box and the petitioner was a pillion rider and as such had no knowledge of the contraband lying in the said tool box. The motor-cycle was being driven by Gurnam Singh and the petitioner was sitting on the rear seat. He contends that initially he was in

Jordan and on account of his ill-health, he had been sent back to India and was going to hospital for a check-up when the alleged occurrence took place. He refers to some of his medical test investigations (Annexure P-2). He also contends that he has no criminal antecedents though his brother Gurnam Singh was involved in similar cases. He also submits that the recovery of 255 grams of heroin is marginally above the commercial quantity of 250 grams, which includes the weight of the polythene packet and therefore, it would be debatable whether the quantity recovered is actually commercial or non-commercial. He relies upon the judgments of this Court in (i) Pritam Kaur @ Bawi Vs. State of Punjab, decided on 31.01.2020 in CRM-M-44066-2019, (ii) Satnam Singh @ Sattu Vs. State of Punjab, decided on 17.09.2019 in CRM-M-30672-2019 and (iii) Hardeep Singh @ Deepa Vs. State of Punjab, decided on 30.09.2013 in CRM-M-26153-2013.

On the other hand, the learned State counsel submits that the recovery effected is of commercial quantity and whether the petitioner was in conscious possession or not would be a matter of trial. Therefore, at this stage, he did not deserve the concession of regular bail, moreso, when his brother Gurnam Singh was accused in other cases of similar nature. He, however, admits the factual aspect of the recovery being marginally above the commercial quantity.

I have heard the rival contentions of both the parties.

Admittedly, the petitioner is not an accused in any other FIR of a similar nature. It would be a matter of adjudication at the stage of trial as to whether the petitioner was in conscious possession of the contraband

or not. The fact of the matter is that the recovery of 255 grams of heroin was effected from the tool box, which is 5 grams more than commercial quantity of 250 grams. Whether the recovery effected was of commercial or non-commercial quantity would be adjudicated upon at the trial. However, given the facts the petitioner has been in custody since 26.02.2021 has no criminal antecedents and the quantity of recovery being a burdensome case, the further incarceration of the petitioner is not warranted.

Therefore, without commenting upon the merits of the case but keeping in view the fact that the trial is not likely to be concluded in the near future the present petition is allowed and petitioner is ordered to be released on bail subject to the satisfaction of learned CJM/Duty Magistrate concerned.

It is further made clear that if petitioner indulges in similar offence for which he is currently charged, the State would be at liberty to move an application for cancellation of bail.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

(JASJIT SINGH BEDI)
JUDGE

23.03.2022
JITESH

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