

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

**CRM-31247 of 2022 in/and
CRM-M-38536 of 2022 (O&M)
Date of decision : 18.10.2022**

Sukhcharan Singh @ Kala @ Sukhchain Singh Petitioner

versus

State of Punjab Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Gural Singh Sandhu, Advocate
for the petitioner.

Mr. Arun Gupta, AAG, Punjab.

PANKAJ JAIN, J. (ORAL)

CRM-31247 of 2022

Application is allowed, as prayed for.

CRM-M-38536 of 2022

This petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case F.I.R. No.050 dated 19.04.2022 registered under Section 21 (b) of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Sadar Malout, District Sri Muktsar Sahib.

Custody certificate by way of affidavit of Iqbal Singh Brar, Superintendent of District Jail Muktsar on behalf of State has been filed. The same is taken on record. As per custody certificate furnished by learned State counsel, the petitioner has already undergone an actual custody period of 5 months and 29 days.

Counsel for the petitioner submits that the alleged recovery from the petitioner is of 7 grams heroin which is marginally higher than the small quantity as notified. He further submits that the investigation is complete. Challan stands presented and thus there cannot be any apprehension that the petitioner would tamper with the evidence.

Learned State counsel opposes the prayer made by the counsel for the petitioner claiming that the petitioner is a habitual offender and is facing 4 more cases involving similar allegations and the petitioner does not deserve the concession of regular bail.

Faced with this situation counsel for the petitioner relies upon ***Prabhakar Tewari Vs. State of UP and Anr., 2020 (1) RCR (Criminal) 831*** to submit that the involvement of the petitioner in several more cases cannot be a ground to deny bail. Further reliance has been placed on ***Maulana Mohd. Amir Rashadi Vs. State of UP (SC), 2012(2) SCC 382.***

I have heard learned counsel for the parties and have gone through the records of the case.

Admittedly, the petitioner is not prior convict. Furthermore, he has earned acquittal in 2 cases i.e. FIR No.46 dated 19.04.2020 registered for offences punishable under Sections 188/269/270 IPC, Sections 22/29/61/85 of NDPS Act, 5 DM ACT 2005 3 E D Act, 1897 at Police Station Malout, Sadar and FIR No.61 dated 21.07.2018 registered for offences punishable under Sections 21/61/85 of NDPS Act at Police Station Malout, Sadar.

So far as the facts of the present case are concerned, the quantity alleged to have been recovered from the petitioner is not

commercial. Rigour of Section 37 of the NDPS Act would not be applicable. Investigation already stands concluded and the challan stands presented. Trial is likely to take sometime to attain the stage of conclusion.

Keeping in view the incarceration suffered by the petitioner and without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned. However, in addition to conditions that may be imposed by the Trial Court/Duty Magistrate concerned, the petitioner shall remain bound by the following conditions :-

- (i) The petitioner shall not mis-use the liberty granted.*
- (ii) The petitioner shall not tamper with any evidence oral or documentary during the trial.*
- (iii) The petitioner shall not absent himself on any date before the trial.*
- (iv) The petitioner shall not commit any offence similar to the one alleged in the present case.*
- (v) The petitioner shall deposit his passport, if any with the trial Court.*
- (vi) The petitioner shall give his cellphone number to the police authorities and shall not change his cell-phone number without permission of the trial Court.*
- (vii) The petitioner shall not in any manner try to delay the trial.*

Needless to say anything recorded herein shall not be construed as an expression of opinion on the merits of the case.

(PANKAJ JAIN)
JUDGE

18.10.2022

Pooja sharma-I

Whether speaking/reasoned
Whether Reportable :

Yes
No