

CRM-M-38813-2022

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-38813-2022
Reserved on: 02.09.2022
Pronounced on: 27.09.2022

Surinder Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. ADS Sukhija, Advocate and
Mr. J.S. Bhatta, Advocate for the petitioner.

Mr. Jashandeep Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
74	25.06.2021	Sadar Jalalabad, Distt. Fazilka	21 of NDPS Act

1. The petitioner, incarcerated upon his arrest for possessing an intermediate quantity of 100 gram heroin, in violation of Narcotics Drugs and Psychotropic Substances Act, 1985 (NDPS Act), has come up before this Court under Section 439 of CrPC, seeking bail.

2. As per paragraph 11 of the bail application and the custody certificate, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offences	Police Station	Quantity involved
1	58	19.06.2009	18 of NDPS Act	Hari Ke	1000 grams opium
2	08	23.01.2015	21 of NDPs Act	Lakho Ke Behram	1100 strips of Alprazolam
3	51	10.05.2015	21 of NDPS Act	City Jalalabad	50 gram Smack

3. The police had recovered 100 grams of heroin and Rs.1,50,000/- as drug money from the petitioner.

4. Ld. Counsel for the petitioner contends that the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.

5. While opposing the bail, Ld. counsel representing the State contends that given the criminal past, the accused is likely to indulge in crime once released on bail.

REASONING:

6. In Paramjeet Singh v. State of Punjab, CRM-M 50243 of 2021, this court observed,

While considering each bail petition of the accused with a criminal history, it throws an onerous responsibility upon the Courts to act judiciously with reasonableness because arbitrariness is the antithesis of law. The criminal history must be of cases where the accused was convicted, including the suspended sentences and all pending First Information Reports, wherein the bail petitioner stands arraigned as an accused. In reckoning the number of cases as criminal history, the prosecutions resulting in acquittal or discharge, or when Courts quashed the FIR; the prosecution stands withdrawn, or prosecution filed a closure report; cannot be included. Although crime is to be despised and not the criminal, yet for a recidivist, the contours of a playing field are marshy, and graver the criminal history, slushier the puddles.

7. Prior to the present FIR, the petitioner was involved in similar cases. The quantity recovered in such cases was 1 kg of opium, which comes to around 40% of commercial quantity, 50 grams of heroin, which comes to around 20 % of its commercial quantity, and 1100 tablets, which would be commercial quantity. In the present case, the quantity recovered is 100 grams of heroin, which comes to 40% of the commercial quantity. Thus, compared with previous recoveries, the total quantity would not entitle the petitioner to bail, given his continuing in drugs taking advantage of the concessions of bail granted earlier. The custody in the present case is one year and three months, which cannot be termed as prolonged given the previous conviction and the quantity involved in the present case. Thus, neither the petitioner makes out a case on merits, nor any averment in the petition assures that if this recidivist is released on bail, he shall not indulge in criminal behavior.

8. Any observation made hereinabove is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

Petition dismissed. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

27.09.2022

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Whether speaking/reasoned: Yes
Whether reportable: No.