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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-43269-2021 (O&M)
Date of Decision:28.03.2022

Palwinder Singh @ Laddi

.. Petitioner

Vs.

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Prateek Pandit, Advocate for the petitioner.

Mr. Ramdeep Partap Singh, DAG, Punjab

...

Manoj Bajaj, J. (Oral)

Petitioner has prayed for grant of regular bail under Section 439 Cr.P.C, pending trial in case FIR No.123 dated 17.06.2020 registered under Sections 21 and 29 NDPS Act, 1985 at Police Station Dharamkot District, Moga. The petitioner is in custody since his arrest on 16.06.2020.

The allegations as noticed by the ld. Judge, Special Court, Moga in the order dated 31.08.2021 are as under:

“The present FIR has been registered against the applicant/accused on the allegations that while in custody in case FIR no.58 dated 30.3.2020 under Sections 307,323,186,353,188, 269, 270,341,148,149,120B IPC P.S. Dharamkot, applicant-accused suffered disclosure statements on the basis of which 260 grams of heroin was recovered from one Verna car bearing No.PB-08EJ0314 and 550 grams of heroin was effected from a house.”

Learned counsel for the petitioner has argued that the petitioner was arrested in case FIR No.58 dated 30.03.2020, registered under Sections 307, 323, 186, 353, 188, 269, 270, 341, 148, 149 and 120-B IPC, at Police Station Dharamkot and while in custody, he suffered a disclosure

statement/confession on 17.06.2020, on the basis of which, 260 grams of

heroin was effected from the bag kept in Verna car bearing registration No. PB-08EJ0314, parked at his house. He submits that in the similar manner, another recovery of 550 grams of heroin was effected on the next day i.e. 18.06.2020 from roof of his house and this shows that the petitioner was falsely implicated, as there was no occasion for him to suffer these disclosures separately. According to him, the recovery effected from him is doubtful, as neither the vehicle in question is owned by him, nor any independent witness, much less family member was joined. He further submits that the investigation is complete and challan has been presented on 12.12.2020, therefore, the petitioner be released on bail.

Learned State counsel assisted by ASI Baljinder Singh has opposed the prayer on the ground that the recovery was effected after following the procedure contained in the NDPS Act, however, it is not disputed that the petitioner was already in custody in FIR No.58 dated 30.03.2020, registered under Sections 307, 323, 186, 353, 188, 269, 270, 341, 148, 149 and 120-B IPC, at Police Station Dharamkot, when he suffered disclosure statements. He, on instructions further submits that the investigation is complete, but charges in this case are yet to be framed.

After hearing the learned counsel for the parties and considering the above background, particularly the custodial period of the petitioner, his further detention behind the bars may not be necessary for any useful purpose. Apart from it, the material witnesses are police officials and at present there does not seem to be any possibility of their being won over.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail

in the above case, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

The petition is allowed.

28.03.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No