

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

206

**CRM-M-43781-2021 (O&M)
Date of decision: 25.05.2022**

GAGANPREET SINGH @ GAGAN MANN

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present : Mr. Kshitij Sharma, Advocate
for the petitioner.

Ms. Amarjit Kaur Khurana, DAG Punjab.

VINOD S. BHARDWAJ. J. (ORAL)

The instant petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.129 dated 22.06.2021 under Sections 21/29/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Samrala, Ludhiana.

Learned counsel for the petitioner has made a reference to the FIR that has been registered at the instance of one Amrik Singh to contend that as per the FIR, on the date of incident at about 07:00 am, one Sikh person was seen coming on a motorcycle mark Platina bearing registration No.PB-43-E-8810, who tried to turn his motorcycle back on seeing the Police party. On getting suspicious as per the conduct of the said person, he was nabbed with the assistance of his colleagues and he disclosed his name as Narinder Singh alias Ninder son of Sarabjit Singh resident of Village Gharkhana. An offer in terms of Section 50 of the Narcotic Drugs and Psychotropic Substances Act, 1985 was made in favour of

the said Narinder Singh alias Ninder and a consent memo was accordingly recorded. On search of the said person, a transparent polythene bag was found from the left-side pocket of the trousers worn by Narinder Singh alias Ninder, which upon opening was found as smack. The recovered quantity was weighed at 20 grams. He contends that the petitioner was nominated as an accused on the basis of disclosure statement made by the said co-accused. It is contended that a recovery of 300 grams of heroin has been effected at the alleged disclosure of the petitioner. He submits that the petitioner is also stated to have named one Lovepreet Singh in his disclosure statement and that even the said Lovepreet Singh was arrested and from his possession 200 grams of heroine was recovered. It is argued that both Lovepreet Singh and Narinder Singh alias Ninder have already been granted the concession of regular bail by the Court.

Learned counsel for the petitioner has vehemently argued that the present case has been falsely foisted upon the petitioner and he is not involved in commission of any offence. As a matter of fact, the petitioner is a gym instructor and is also doing social work by helping the youth to focus on health instead of involving themselves in drugs. He contends that the petitioner was actually apprehended from his village on 23.06.2021 and the aforesaid aspect is duly certified by the Sarpanch and other residents of the village. Reliance in this regard is placed on the document annexed as Annexure P-4. He further submits that the entire incident stands recorded in the CCTV footage that was handed over to the investigating agency, however, the said aspect is deliberately being suppressed by the investigating agency and the allegations as well as the proof submitted by the petitioner showing that he was apprehended earlier and later on his arrest has been shown to have taken place from the bus-stand on the same day. He contends that

there has been a change of the place of arrest and that the petitioner was already in custody of the police prior to his arrest being reflected by the investigating agency.

Learned counsel for the petitioner further places reliance on the order passed by the Co-ordinate Bench of this Court in the matter of **Festus Ugochukwu Vs. State of Punjab**, bearing CRM-M-37253 of 2016 decided on 07.12.2016, wherein the petitioner was granted the concession of regular bail for having been found in possession of 300 grams of heroin after having undergone a custody period of 09 months. Reliance is also made to the order dated 14.03.2017 passed in the matter of **Ugochukwu Henry Vs. State of Punjab** bearing CRM-M-7863 of 2017, wherein a similar concession had been extended to the petitioner, who was also found in possession of 300 grams of heroin. It is contended that the custody period undergone by the petitioner in the said respective cases, wherein the concession of bail was extended to the petitioners, was much lower as compared to the custody undergone by the petitioner in the present case which is 11 months and 03 days. He contends that the petitioner does not have any criminal antecedents and is not involved in any other case.

Per contra, learned State counsel has pointed out that the recovery pursuant to the disclosure statement made by the petitioner has already been effected and as such the same is admissible in evidence against the petitioner in terms of Section 27 of the Evidence Act, 1872. While responding to the submissions made by learned counsel for the petitioner that the place of arrest had been surreptitiously changed and that instead of showing the arrest from the house in the morning and the same having been reflected from the bus-stand is concerned, it is argued that the same is a matter of trial and shall be examined by the trial Court. It is, however, not controverted that the petitioner has undergone

actual custody of 11 months and 03 days and that even though the investigation in the case is complete, charges have so far not been framed. She also does not dispute the fact that the co-accused of the petitioner from whom recovery in the nature of non-commercial quantity was effected, has already been enlarged on bail and that the petitioner does not suffer from any criminal antecedents.

I have heard learned counsel for the parties and have perused the material on record.

Taking into consideration the circumstances as noticed above as well as the dispute raised by the petitioner with respect to place of his arrest; status of the investigation; precedent orders passed by this Court in the matter of similar recovery; absence of criminal antecedents of the petitioner and also the possibility that the trial shall take long to conclude as the matter is still at initial stage, I deem it appropriate to enlarge the petitioner on bail.

Accordingly, the present petition is allowed and the petitioner is admitted to regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of Trial Court/Duty Magistrate, concerned.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

The observation made hereinabove shall not be construed as an expression on the merits of the case and the Trial Court shall decide the case on the basis of available material.

(VINOD S. BHARDWAJ)
JUDGE

May 25, 2022

S.Sharma(syr)

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*