

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

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CRM-M-46244-2021
Date of decision : 16.11.2022

Hardev Singh @ Dev

Petitioner

V/S

State of Punjab

Respondent

CORAM : HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Arshdeep Singh Brar, Advocate
for the petitioner.

Mr. Jaspal Singh Guru, Asstt. A.G., Punjab
for the respondent-State.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioner has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.138 dated 06.08.2020 registered under Sections 21 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act') at Police Station City South Moga, District Moga.

Brief facts of the case are that on 06.08.2020, the police party headed by ASI Jaswinder Singh, on suspicion, apprehended one Money @ Machhar and on search 20 grams of heroin along with drug money of Rs.3,000/- were recovered from him. During investigation, Money @ Machhar disclosed the name of the petitioner as supplier of the heroin recovered from him.

Learned Counsel for the petitioner has argued that the petitioner was not arrested on the spot and no recovery was made from his possession. The petitioner has been falsely implicated in the case on

the basis of disclosure statement allegedly made by co-accused Money @ Machhar. Apart from the disclosure statement, there is no evidence regarding involvement of the petitioner in the case. Even otherwise the contraband recovered from co-accused Money @ Machhar falls under the category of non-commercial quantity. The petitioner is in custody since 08.09.2021. The petitioner has also been falsely implicated by the Moga Police in various cases under the NDPS Act. Trial is likely to take time and no purpose will be served by keeping the petitioner in custody. Therefore, the petitioner may be ordered to be released on regular bail.

On the other hand, learned State Counsel has argued that as per disclosure statement of co-accused Money @ Machhar, he had purchased the alleged contraband recovered from him from the petitioner. The petitioner is also involved in many other cases.

Custody certificate dated 24.08.2022 has been filed by learned State counsel in the Court today which is taken on record. As per the custody certificate, the petitioner is in custody from last more than 11 months.

I have heard learned counsel for the parties.

Keeping in view the facts and circumstances of the case, custody period of the petitioner, particularly the fact that the petitioner was not apprehended on the spot, no recovery was made from him, there is no evidence against him except the disclosure statement of co-accused and also the fact that the trial is likely to take long time but without commenting on the merits of the case, I am of the considered view that the petitioner deserves the concession of regular bail.

Accordingly, the present petition is allowed and the petitioner-Hardev Singh @ Dev is ordered to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate concerned.

State will be at liberty to file application for cancellation of petitioner's bail, if he is found involved in any other criminal activity during the period of bail.

16.11.2022

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(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No