

CRM-M-40999-2022

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

CRM-M-40999-2022

Date of decision: 13.09.2022

Manpreet Singh @ Kaku

...Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Joginder Pal Devgan, Advocate,
for the petitioner.

Mr. Joginder Pal Ratra, Sr. DAG, Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Through this second petition (the first one having been dismissed as withdrawn on 21.07.2022), the petitioner seeks regular bail in case bearing FIR No.94 dated 08.08.2020, registered at Police Station Special Task Force, SAS Nagar, Mohali, under Sections 21, 25 and 29 NDPS Act, 1985.

Learned counsel for the petitioner submits that the petitioner alongwith his brother has been indicted in the present case on the disclosure statement of the co-accused; that the petitioner has been in custody since 09.08.2020; that co-accused, namely, Jarnail Singh @ Goldy, who was arrested at the spot, has since been granted the concession of regular bail by this Court, vide order dated 08.08.2022; that challan was presented on 06.11.2020 and that there is no likelihood of completion of trial in the near future. On this premise, learned counsel prays that the

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petitioner be released on regular bail.

On the other hand, learned State counsel, while opposing the grant of bail to the petitioner, submits that name of the petitioner had initially surfaced in the secret information and subsequently in the disclosure statement of the co-accused; that recovery of 300 gm. heroin was effected from the car occupied by the co-accused, and that recovery of 100 gm. heroin had also been effected from the kitchen of house of the petitioner. Learned State counsel further contends that there are as many two other cases registered or pending against the petitioner, under the NDPS Act, and therefore, the petitioner being a habitual offender cannot claim parity with co-accused, Jarnail Singh @ Goldy.

I have heard the learned counsel for the parties.

As per the case of prosecution, on 08.08.2020, the police received a secret information that Gupreet Singh @ Sabi and his brother Manpreet Singh alias Kakku had indulged in the smuggling of heroin; that two local smugglers, namely, Jarnail Singh alias Goldy and Satnam Singh alias Bunty had brought heroin from Gurpreet Singh alias Sabi and Manpreet Singh @ Kakku (petitioner) had been going to supply the same; that on the basis of the aforesaid information, the police had laid a *Naka* and recovery of 300 gram heroin had been effected from the car occupied by the co-accused, namely, Satnam Singh @ Bunty and Jarnail Singh @ Goldy; that on the disclosure statement of the co-accused, the raid was conducted at the house of the petitioner and 100 gm. heroin had been recovered from the kitchen of the house of the petitioner.

The name of the petitioner had surfaced in the secret

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information as well as in the disclosure statement of the co-accused.

As per the allegations, 300 gm. heroin allegedly recovered from the co-accused, had been supplied by the petitioner and his brother. The role of the petitioner cannot be separated at this stage. Indisputably, the extent of heroin recovered from the co-accused, falls under the category of 'commercial quantity'. Section 37 NDPS Act bars the grant of bail to the accused in case of 'commercial quantity'. The liberal approach in granting bail in cases under the NDPS Act, is uncalled for.

The Hon'ble Supreme Court, in Criminal Appeal No.1001-1002 of 2022, titled as 'Narcotics Control Bureau Vs. Mohit Aggarwal', decided on 19.07.2022, has held that length of the period of custody of the accused or the fact that the charge-sheet has been filed and the trial has commenced are by themselves not considerations that can be treated as persuasive grounds for granting relief to the accused under Section 37 NDPS Act.

Moreover, the petitioner has as many as two other cases registered or pending against him, under the NDPS Act. It also shows that the petitioner has the tendency of committing repeated crime(s) of similar nature. As such, the petitioner cannot claim parity with co-accused, Jarnail Singh @ Goldy, who has no past criminal antecedents.

It is not denied for a moment that the period of custody is a relevant factor, but simultaneously the totality of the circumstances and the criminal antecedents are also to be weighed. Keeping in view the criminal antecedents of the petitioner, the period of custody of more than 02 years and 01 month, in my considered opinion, melts into insignificance. Still

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further, having had his complicity in the repeated offence of similar nature, the petitioner cannot seek the concession of regular bail, which of course, if granted would pave a way to him to involve himself in another similar offence.

Considering the same, at this stage, no justifiable ground is made out to extend the concession of regular bail to the petitioner.

Consequently, the present petition stands dismissed.

13.09.2022

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No