

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-43078-2022 (O & M)****Date of decision: 10.10.2022**

Jagmohan Singh

.... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Gursimran Singh Madaan, Advocate, for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in case FIR No.65 dated 23.07.2022 under Sections 21/29/61/85 of the NDPS Act and Sections 27-A/32/35 of the NDPS Act (added later on) registered at Police Station Kotli Surat Mallian.

2. The brief facts of the case are that while police party was on patrolling duty, a car being driven by a person was seen coming from the side of village Sikar Machia bearing registration No.PB-06-AZ-5539 make Verna. The said car was signalled to stop and instead of stopping the car, the driver tried to turn around and drive away the car. A head-shaved person was seen sitting on the front seat holding a heavy polythene bag in his right hand, alighted from the car and managed to escape by taking the advantage of the darkness. While getting out of the car, the person driving the car, tried to throw something wrapped in polythene on the ground but he was apprehended and on enquiry, he disclosed his named as Sajan son of Sonu.

On search, 04 grams 30 mgs. heroin was recovered from him.

During interrogation, the petitioner made a confessional statement that he and Sunny used to procure heroin from Gurnoor Singh and one Love @ Abhishek and further supplied the same to their customers. On 22.07.2022, they had procured heroin from Gurnoor Singh and Love @ Abhishek. On the basis of the disclosure statement of Sajan, Sunny @ Sunny Masih, Gurnoor and Love @ Abhishek were nominated as accused.

On 07.08.2022, the accused Abhishek @ Love was arrested and confessed that he and his friend Gurnoor were selling heroin for money and on 22.07.2022, the arrested accused Sajan had taken 04 grams 30 mgs. from them to sell from the vehicle of Gurnoor Singh bearing No.PB-06-AZ-5539. He disclosed that he knew the whereabouts of other accused, namely, Gurnoor Singh, whom he met with Sukhbir Singh, Balwinder Singh and Karan. The name of the present petitioner-Jagmohan singh alongwith Dilbagh Singh, Karandeep Singh, Amritpal Singh, Baljinder Kaur and Pavittarpal Kaur were disclosed as they were the persons who helped Gurnoor Singh and Khushbir Singh to escape at the time of the raid of the police. Therefore, G.D. No.31 dated 09.08.2022 was recorded adding offences under Sections 27-A, 32 and 35 of the NDPS Act.

Thereafter on 09.08.2022, Pavittarpal Kaur, Amritpal Singh and Jagmohan Singh (petitioner) were arrested.

3. The learned counsel for the petitioner contends that the petitioner alongwith his co-accused Amritpal Singh and Pavittarpal Kaur were arrested in this case on 09.08.2022. The SHO had, in fact, filed an application for discharge of the accused but the Sessions Court did not accept the application. He contends that nothing has been recovered from the petitioner and the only allegation against him and his co-accused is that

time of the raid by the police. In fact, they were not aware of the criminal antecedents of Gurnoor. Even otherwise, the recovery from the main accused-Sajan was of 04 grams 30 mgs. of heroin, which was a small quantity and since the petitioner was a first-time offender, he deserves the concession of bail.

4. A short reply dated 07.10.2022 has been filed by way of an affidavit of Rashpal Singh, PPS, Deputy Superintendent of Police, Hqrs. Batala, Police District Batala on behalf of the State and the same is taken on record. The learned counsel for the State does not dispute the factual position as narrated above that an application for discharge had been moved which was not accepted. He however contends that the petitioner has played an active role in helping the co-accused to escape from the spot and since the Court has not accepted the discharge application, the petitioner does not deserve the concession of bail.

5. I have heard the learned counsel for both the parties.

6. Admittedly, the recovery from co-accused Sajan is of 04 grams and 30 mgs. of heroin, which is defined as “small quantity”. The petitioner was arrested only on account of the fact that he was helping some of the accused to escape at the time of the police raid. The investigating agency had found him to be innocent and therefore, an application for discharge had been moved though the same was not accepted. No recovery whatsoever has been effected from the petitioner. Even otherwise, the petitioner is a first-time offender with no other FIR registered against him.

7. Since the petitioner is in custody since 09.08.2022 and even the investigation is not complete, as of now, the trial of the present case is certainly not likely to be concluded in the near future. Thus, the further

incarceration of the petitioner is not required.

8. In view of the above, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Jagmohan Singh, is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

(JASJIT SINGH BEDI)
JUDGE

October 10, 2022
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No