

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

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**CRM-M-43950-2022
Decided on : 27.09.2022**

Guljinder Pal @ Laddi

. . . Petitioner(s)

Versus

State of Punjab

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. APS Rehan, Advocate
for the petitioner.

Mr. JS Arora, DAG, Punjab.

SANJAY VASHISTH, J. (Oral)

The instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail to the petitioner, who has been booked for having committed the offences punishable under Sections 21(c), 25 & 29 of the Narcotic Drugs and Psychotropic Substances Act, 1986 (for brevity 'NDPS Act'), in FIR No. 111, dated 02.06.2022, registered at Police Station Special Task Force, District STF Wing (SAS Nagar), during the pendency of trial.

Learned counsel for the petitioner submits that petitioner and co-accused Puneet Sood, were standing together occupying the seats of scooter (activa). Petitioner was on the driving seat of the said scooter owned by him, whereas, co-accused Puneet Sood was occupying the rear seat. Counsel for the petitioner further submits that recovery of 310 grams of Heroin, has been effected from the right side pocket of the trouser worn by co-accused Puneet Sood, which was not visible to the petitioner.

Learned counsel for the petitioner further submits that petitioner,

who is aged about 48 years, is never indulged in any such activity in his past. Therefore, arguments available with the petitioner would be that whether petitioner was in conscious possession of the recovered contraband or not ? He further submits that there are fairly arguable points during the course of the trial showing the innocence of the petitioner. He further submits that further incarceration of the petitioner is not worth in this case.

In response to the arguments addressed by learned counsel for the petitioner, learned State counsel, produces the custody certificate dated 26.09.2022 in Court today, which is taken on record, subject to all just exceptions. Office to tag the same at appropriate place.

A copy thereof has been handed over to the counsel for the petitioner.

As per the custody certificate, in the present case, petitioner has already undergone 03 months and 24 days period inside jail and there is no other case registered against the petitioner under the NDPS Act.

Learned State counsel submits that after completion of investigation challan has been submitted to the concerned Court and charges are yet to be framed. Prosecution has to examine total 12 witnesses during trial.

After considering the submissions of both the sides, perusing the record with their able assistance, and considering all the factors recorded hereinabove, I am of the view that applicability of Section 37 of the NDPS Act, would be a question before trial Court, because, the quantity recovered is 310 grams of Heroin, whereas, non-commercial quantity is upto 250 grams. Recovered quantity of Heroin is higher than the prescribed quantity as per the NDPS Act, but it is not that high, that submissions made by

learned counsel for the petitioner can be ignored. Counsel submits that as per prosecution version, recovery is from the right side pocket of the trouser worn by the co-accused Puneet Sood, who was occupying the rear seat of the said scooter and the said packet could not be visible to the petitioner. Thus, undoubtedly, the question before the learned trial Court *qua* the petitioner would be, whether he was in conscious possession of the same or not ?

In view of the totality of circumstances and the factors recorded hereinabove, the prayer made in the present petition is allowed. Petitioner is ordered to be released on bail in this case, subject to his furnishing bail/surety bonds to the satisfaction of the learned Trial Court/ Chief Judicial Magistrate/ Illaqa Magistrate/ Duty Magistrate concerned, if not required in any other case.

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 here-in-above 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 evidence available on record.

It is further made clear that if in future petitioner is found indulged in similar kind of activities, prosecution would be at liberty to seek cancellation of bail in the present case.

Petition stands disposed of.

(SANJAY VASHISTH)
JUDGE

September 27, 2022

J.Ram

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