

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-44090-2022 (O & M)****Date of decision: 28.09.2022**

Balwinder Singh @ Laddi @ Laddu

.... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. N.S. Sodhi, Advocate, for the petitioner and
Mr. N.K.Mehra, Advocate.

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.110 dated 30.05.2017 under Sections 22, 25,27-A, 28, 29, 30-61/85 of the NDPS Act, 1985 registered at Police Station Meharban, District Ludhiana.

2. The brief facts of the case are that secret information was received by the investigating agency that Gurmej Singh @ Gejaj, Partap Singh @ Titu, Raj Kumar alias Raju, Balwinder Singh @ Laddi (the present petitioner), Gulzar Singh and his companion Gajtar Singh were in the business of drug dealing and had links with drug peddlers of Pakistan. They received a huge assignment of heroin from Pakistan at the Border from where they themselves or their companions would pick up the contraband and supply the same. Further, from the financial returns of the drug deals, they had purchased properties and vehicles. On the aforementioned information, the FIR came to be registered.

Thereafter, accused Gurmej Singh and Partap Singh were arrested and from the possession of Gurmej Singh, 04 kgs. of heroin and Partap Singh, 01 kg. heroin was recovered. On their disclosure statement, Channa Singh and Makhan Singh were nominated as accused and in pursuance of their disclosure statements, they got recovered 02 kgs. of heroin.

3. The learned counsel for the petitioner contends that the petitioner was named in the secret information which finds mention in the FIR. However, pursuant to the arrest of the petitioner, no recovery was effected from him. In fact, he was declared a proclaimed offender without the requisite procedure being following and as against the co-accused, the Trial has almost culminated whereas against the petitioner, the charges are yet to be framed. He contends that the petitioner has clean antecedents and has never been involved in any case under the NDPS Act.

4. The learned counsel for the State contends that the petitioner was declared a proclaimed offender on 10.05.2018 and came to be arrested only on 02.12.2021. He contends that the conduct of the petitioner does not entitle him to the grant of bail, though, he admitted that the petitioner is a first-time offender and none of the 20 prosecution witnesses have been examined so far.

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

6. This Court in a judgment passed in the case of “*Rameshwar Sharma and others versus State of Punjab, 2015(8) RCR (Criminal) 984*”, has held as under:-

“6. At the time of arguments, learned counsel for the State argued that the petitioners have been declared proclaimed offenders in the FIR on 5.5.2014 and have been arrested on 4.7.2015. As already discussed, firstly, it is case of non-commercial quantity.

Secondly, no recovery of any incriminating articles has been effected from the present petitioners. The petitioners are in custody since 4.7.2015. They are not required for interrogation or investigation purposes as the petitioners are in judicial custody. Nothing is to be recovered from them. The trial of the case will take long time. No useful purpose will be served by keeping the petitioners in custody till the final disposal of the case”.

7. Admittedly, the petitioner is not named in the FIR. Recoveries of contraband as mentioned-above have been effected from his co-accused. The petitioner was undoubtedly declared a proclaimed offender on 10.05.2018 but is now in custody since 02.12.2021. He is a first-time offender with no other case under the NDPS Act and none of the 20 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded any time soon. Thus, the further incarceration of the petitioner is not required.

8. Even otherwise, since the petitioner is a first-time offender and no recovery has been effected from him, the rigors of Section 37 of the NDPS Act can be relaxed.

8. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Balwinder Singh @ Laddi, is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. The petitioner shall appear on the first Monday of every month before the local police station till the conclusion of the trial and furnish an affidavit each time that he is not involved in any crime other than the present one

10. In addition, the petitioner shall prepare an FDR in the sum of

liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

(JASJIT SINGH BEDI)
JUDGE

September 28, 2022
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No