

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-48487-2022

Date of decision : 27.10.2022

Baldev Singh

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.V.B.Godara, Advocate
for the petitioner.

Mr. Dhruv Sihag, AAG, Haryana.

VIKAS BAHL, J.(ORAL)

This is a first bail petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.180 dated 06.07.2022, registered under Sections 21(b) of the Narcotic Drugs & Psychotropic Substances Act, 1985 (for short 'the NDPS Act'), at Police Station Dhing, District Sirsa.

Learned counsel for the petitioner has submitted that the alleged recovery in the present case effected from the petitioner and co-accused-Balwinder Singh @ Bindu was of 50 grams of heroin which included the weight of the poly-pouch and thus, the same would fall in the category of non-commercial quantity inasmuch as the commercial quantity stipulated for heroin starts from 250 grams. It is further submitted that the petitioner has been in custody since 06.07.2022 and the investigation is complete and the challan has already been presented but along with the challan, the report of FSL had not been submitted and the FSL report has

concession of default bail on the said ground as the requisite period has already elapsed. It is stated that there are 11 witnesses and out of which, none have been examined and thus, the trial is likely to take time. It is further stated that the petitioner is not involved in any other case and the co-accused Balwinder Singh @ Bindu has been granted the concession of regular bail by this Court vide order dated 12.10.2022 passed in CRM-M-45749-2022.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that the recovery of 50 grams of heroin has been effected from the present petitioner and his co-accused Balwinder Singh @ Bindu.

This Court has heard learned counsel for the parties and has perused the paper book.

The petitioner has been in custody since 06.07.2022 and the investigation is complete and the challan has already been presented and there are 11 witnesses and out of which, none have been examined and thus, the trial is likely to take time. The recovery effected from the present petitioner and co-accused amounts to 50 grams of heroin which includes the weight of poly-pouch, as has been recorded in paragraph 2 of the order dated 09.09.2022 rejecting the bail of the petitioner. The said recovery is alleged to have been effected from the petitioner and co-accused Balwinder Singh @ Bindu. The said recovery would fall within the category of non-commercial quantity as the commercial quantity stipulated for heroin starts from 250 grams and thus, bar under Section 37 of the NDPS Act would not apply. The FSL report has not been submitted till date.

Keeping in view the above said facts and circumstances, the

present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to him not being required in any other case.

However, it is made clear that in case, any act is done by the petitioner to threaten or influence the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

October 27, 2022
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No