

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-50750-2022

Date of decision : 10.11.2022

Surinder Singh @ Shindu

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Kamal Narula, Advocate
for the petitioner.

Mr.Iqbal S.Mann, DAG, Punjab.

VIKAS BAHL, J.(ORAL)

This is a first petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.112 dated 07.07.2022 registered under Section 21 of the Narcotic Drugs and Psychotropic Substances Act 1985 (in short “NDPS Act”) (Sections 61/85 of the NDPS Act and Sections 353, 332, 186, 224, 225, 148, 149 IPC added later on) at Police Station City Jalalabad, District Fazilka.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 09.07.2022. It is further submitted that the petitioner was neither named in the FIR nor in the secret information and as per the same, two accused persons had been named, i.e. Swaran Singh and Mohinder Kaur and no recovery has been effected from the present petitioner and the alleged recovery of 10 grams of heroin had been effected from the said co-accused Mohinder Kaur and the said recovery of

which starts from 250 grams. It is further submitted that no specific overt act or injury has been attributed to the present petitioner.

Learned State counsel on the other hand has opposed the present petitioner for regular bail and has submitted that the petitioner, along with other accused, had scuffled with the police, but the police had been able to arrest only Mohinder Kaur. It is further submitted that the petitioner is involved in some other cases.

Learned counsel for the petitioner, in rebuttal, has relied upon the judgment of Hon'ble Supreme Court in ***“Maulana Mohd. Amir Rashadi vs. State of U.P. and another”***, reported as ***2012 (2) SCC 382*** to contend that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other cases. The relevant portion of the said judgment is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

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

The petitioner has been in custody since 09.07.2022. The petitioner was not named in the FIR, nor in the secret information and as per the FIR, 2 accused persons, only Swaran Singh @ Shambu and Mohinder Kaur had been specifically named in the secret information. No recovery

has been effected from the present petitioner and the alleged recovery of 10

grams of heroin has been effected from the said Mohinder Kaur and the said recovery of 10 grams of heroin is far lesser than the stipulated commercial quantity, which starts from 250 grams. It is the case of the petitioner that the police officials had come to the house of Mohinder Kaur in plain clothes, thus, a large number of people had gathered outside the house of said Mohinder Kaur thinking that some assailants had come to rob the said Mohinder Kaur.

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

November 10, 2022

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No