

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-52266-2022

Date of Decision: 17.11.2022

Harvinderpal Singh @ Kala

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Manu Loona, Advocate
for the petitioner.

Ms. Kanica Sachdeva, AAG, Punjab.

KARAMJIT SINGH, J.

Prayer in the present petition under Section 439 of Code of Criminal Procedure is for grant of regular bail to the petitioner in case FIR No.115 dated 24.9.2022 registered for the offences punishable under Sections 21, 29 of NDPS Act at Police Station Arniwala, District Fazilka.

Counsel for the petitioner submits that as per prosecution version, 40 grams of Heroin was recovered from the petitioner, Hardesh Rani and Kuldeep Singh by the police. It is further submitted that aforesaid Kuldeep Singh and Hardesh Rani have been granted regular bail by the Court of Judge, Special Court, Fazilka vide orders Annexures P-2 and P-3 respectively. He further submits that the bail application of the petitioner was declined by the said Court just on the ground that he was having criminal history. He further submits that the petitioner is not facing any other case under NDPS Act and the present case is relating to recovery of

non-commercial quantity and thus, the petitioner is also entitled to grant of bail.

Present petition is contested by the State counsel who has resisted the present petition on the ground that the petitioner is having criminal history. Otherwise, he has not disputed that in the present case, 40 grams of Heroin was recovered from the petitioner, Kuldeep Singh and Hardeh Rani and other two accused are already granted bail by the learned trial Court.

I have considered the submissions made by the counsel for the parties.

Present case is relating to recovery of 40 grams of Heroin from the possession of the petitioner, Kuldeep Singh and Hardeh Rani by the police on 24.9.2022. Thereafter, Kuldeep Singh and Hardeh Rani are granted the concession of regular bail by the learned trial Court vide orders Annexures P-2 and P-3 respectively while the bail application of the petitioner was dismissed on the ground that he was having criminal antecedents. Admittedly, the petitioner is not facing any other criminal case under NDPS Act. Present case is with regard to recovery of non-commercial quantity of Heroin and as such, rigors of Section 37 of NDPS Act are not applicable to the instant case. The petitioner is already in custody for the last more than 1 month and 21 days and it will take time for the police to present the challan. Thus, no useful purpose is going to be served by keeping the petitioner in custody for any further period.

In view of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the

satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(KARAMJIT SINGH)
JUDGE

November 17, 2022
Paritosh Kumar

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