

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-58605-2022 (O&M)

Date of Decision:-20.12.2022

Kapil

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Amandeep Chhabra, Advocate for the petitioner.

Mr. Luvinder Sofat, DAG, Punjab and
Mr. Siddharth Attri, AAG, Punjab.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks grant of regular bail in respect of a case registered vide FIR No.257, dated 3.10.2022, Police Station City Malout, District Sri Muktsar Sahib, under Section 21(b) of Narcotic Drugs and Psychotropic Substances Act, 1985, wherein it is alleged that on 03.10.2022, the petitioner was found in possession of 15 grams of '*herion*'.
2. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and that, in any case, the recovered contraband would fall in the category of 'non-commercial' quantity and, as such, the petitioner deserves the concession of bail particularly when investigation is already complete and challan stands presented.
3. Opposing the petition, learned State counsel has submitted that since the petitioner is a habitual offender having been involved in 3 other cases under

NDPS Act, he does not deserve to be released on bail. It has, however, been informed that the investigation is already complete and challan stands presented.

4. This Court has considered the rival submissions.
5. During the course of arguments, learned counsel for the petitioner submitted that out of the other 3 cases, 1 case is for offence under IPC and 2 cases are under NDPS Act and that the said 2 cases under NDPS Act pertain to recovery of 'non-commercial' quantity and that one of the said cases is based on disclosure statement. Learned counsel submitted that the petitioner, in order to prove his *bonafides*, is willing to deposit an amount of Rs.2 lakhs in FDR, which may be forfeited in case he commits any such offence again.
6. Having regard to the facts and circumstances of the case particularly the fact that it is a case of 'non-commercial' quantity, the petition is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.
7. In view of the offer made on behalf of the petitioner, it is directed that the aforesaid order granting bail shall be subject to the condition that the petitioner, as per his offer, shall deposit an amount of Rs.2 lakhs before the Trial Court/Illaq Magistrate at the time of furnishing his bail bonds/surety bonds. Upon deposit of such amount, the Trial Court/Illaq Magistrate shall get the same invested in some FDR with some Nationalized Bank with a specific direction to Manager of the bank concerned not to entertain any request for encashment of the same except under orders of the Court. In case,

the petitioner is found involved in any other case under NDPS Act, wherein he is caught red-handed while in possession of contraband, the aforesaid FDR of Rs.2 lakhs shall stand forfeited. However, in case the petitioner does not get involved in any other case and is acquitted in this case also and such acquittal attains finality, it shall be open to the petitioner to seek release of the aforesaid FDR.

20.12.2022

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No