

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM No.M-422 of 2023

Date of Decision: March 13, 2023

Lakhwinder singh @ Lakha

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.J.S.Kailey, Advocate,
for the petitioner.

Mr.Karan Puggal, DAG, Punjab
for the respondent-State.

ARCHANA PURI, J.

This is sixth petition under Section 439 Cr.P.C. for seeking regular bail filed by the petitioner in case FIR No.87 dated 21.07.2020 under Section 21(C) of the NDPS Act, Police Station STF Phase 4, Mohali, District SAS Nagar.

Status report dated 03.03.2023 has been placed on record.

As per version of the prosecution, on the night of 20.07.2020, in pursuance of the information specifically received against Lakhwinder Singh @ Lakha-present petitioner and two others, with regard to their indulgence in drug trafficking of heroin, naka was laid and thereafter, at the place of barricade, car bearing registration No.DL-9CP-1104 was intercepted. The person, who was driving the car, on query, disclosed his

name as 'Lakhwinder Singh @ Lakha'-present petitioner. In pursuance of search of the car, 500 grams of heroin was recovered from near the gear of the car, which was taken into possession vide recovery memo. FIR was registered and the occupants including present petitioner were taken into custody.

Now, it is submitted by learned counsel for the petitioner that petitioner is in custody since 21.07.2020. Even, the trial is not making much progress. As such, learned counsel for the petitioner makes a prayer that benefit of regular bail be granted to the petitioner.

On the other hand, learned State counsel has resisted the claim for bail. He submits that the extent of recovery, so effected from the conscious possession of the petitioner and his fellow companions, falls under '**commercial quantity**' and rigors of Section 37 of the NDPS Act, as such, are attracted. Also, it is submitted by learned State counsel that as per the status report, which has been placed on record, 7 witnesses have already been examined. However, he submits that one more witness has been examined and material witnesses, yet remained to be examined are Investigating Officer, attesting witnesses to the recovery and DSP, who is a gazetted officer. Besides the same, it is submitted that petitioner is indulging into drug peddling. Three FIRs, the detail whereof, has been given in paragraph No.16 of the status report, had been got lodged against the accused-petitioner and he is facing trial in two cases.

Undisputedly, the extent of recovery, so effected, from the car driven by the petitioner, falls under '**commercial quantity**'. Looking at the extent of recovery, so effected, the rigors of Section 37 of the NDPS Act are

attracted.

No doubt, as submitted by learned counsel for the petitioner that petitioner is in custody since 21.07.2020, but however, it is pertinent to mention that length of period of his custody, as such or the commencement of the trial, in itself are not the considerations, which can be treated as persuasive ground for relief to the petitioner under Section 37 of the NDPS Act.

However, the fact remains that the material witnesses are yet to be examined. Also, there are three FIRs got registered against the present petitioner, out of which, two are under NDPS Act. The petitioner is facing trial in two cases; one under Excise Act and another under Section 15 of the NDPS Act.

Considering the same, no justifiable reason is made out, to extend the concession of bail to the petitioner.

Consequently, the present petition is hereby dismissed.

(ARCHANA PURI)
JUDGE

March 13, 2023
Vgulati

Whether speaking/reasoned
Whether reportable

Yes
Yes/No