

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

**CRM-M No.1144 of 2023 (O&M)
Date of decision : 28.03.2023**

Paramjit Singh @ Sunny

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Brijesh Nandan, Advocate for the petitioner.

Mr. Inderpreet Singh Kang, AAG, Punjab.

PANKAJ JAIN, J. (ORAL)

This is third petition filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case F.I.R. No.55 dated 25.03.2022 registered under Section 21 (C) of the NDPS Act, 1985 at Police Station Special Task Force, District STF Wing, SAS Nagar, Mohail.

As per the allegations levelled in the FIR, heroin weighing 260 grams in a polythene bag was recovered from the personal search of the petitioner.

Learned counsel for the petitioner submits that the commercial quantity as scheduled under the NDPS Act starts from 250 grams. The quantity involved being marginally above the commercial quantity rigours of Section 37 of the NDPS Act would not be applicable. Reliance has been further placed upon bail granted by this Court in the case of ***Vinod Kumar @ Gabbar Vs. State of Punjab*** passed in CRM-M No.41230 of 2022 decided on 14.09.2022 and ***Hardev Singh @ Dev Vs. State of Punjab*** passed in CRM-M No.53635 of 2021 decided on 16.11.2022.

I have heard learned counsel for the parties and have gone through the records of the case.

So far as the concept of marginal higher is concerned, the same may be a ground to be considered after an accused has been found guilty and is to be granted sentence. However, so far as rigours as contained in Section 37 of the NDPS Act is concerned, the same do not identify the concept of “marginal higher”. In *Vinod Kumar @ Gabbar's* case supra, relied upon by the counsel for the petitioner the bail was granted for the reason the petitioner had undergone incarceration of more than 2 years and 3 months and recognizing the right to speedy trial the bail was granted. Likewise, in the case of *Hardev Singh @ Dev's* case supra recovery was not effected from the personal search but from vehicle wherein three persons were travelling and two had already been granted regular bail when the matter of *Hardev Singh @ Dev's* case supra was considered.

Thus in view of the aforesaid, reliance of counsel for the petitioner on the order passed in *Vinod Kumar @ Gabbar's* case supra and that passed in the case of *Hardev Singh @ Dev's* case supra is misconceived and misplaced. Keeping in view the quantity involved from the petitioner and the rigours as contained in Section 37 of the NDPS Act, no ground to grant regular bail is made out.

The petition stands dismissed.

(PANKAJ JAIN)
JUDGE

28.03.2023
Pooja sharma-I

Whether speaking/reasoned	Yes
Whether Reportable :	No