

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

212

CRM-M No.4384 of 2022

DATE OF DECISION : 5th SEPTEMBER, 2023

Gurdev Singh @ Kalu

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

* * * *

Present : Mr. Amit Arora, Advocate for the petitioner.

Mr. Jaspal Singh Guru, AAG, Punjab.

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RAJBIR SEHRAWAT, J. (Oral)

1. The present petition has been filed by the petitioner under Section 439 Cr.P.C for grant of bail pending trial in case FIR No.61 dated 03.07.2021 registered under Section 21 (c) Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station Verowal, District Tarn Taran.

2. The custody certificate filed by the learned counsel for the State, is taken on record.

3. It is submitted by the learned counsel for the petitioner that the case against the petitioner is totally concocted. However, the petitioner is not involved in the case as alleged against him. Even as per the story of the prosecution the police have recovered 260 grams of heroin from the petitioner. Even that weight was done along with the plastic bag in which it was recovered. Therefore, the quantity of the alleged recovered material is non-commercial one. The petitioner is in custody since 05.07.2021. The prosecution has examined one witness so

far out of total eleven witnesses. The counsel for the petitioner has relied upon the judgments rendered by the Hon’ble Supreme Court in the cases of *Nitish Adhikary @ Bapan Vs. The State of West Bengal* vide order dated 01.08.2022 passed in *SLP (Criminal) No.5769-2022; Mohd. Muslim @ Hussain Vs. State (NCT of Delhi), 2023 AIR (Supreme Court) 1648* and another judgment rendered in *Md. Hasanuzzaman Vs. State of West Bengal & Ors, SLP (Crl.) No.3221 of 2023* vide order dated 04.05.2023, to buttress his arguments. Accordingly, it is submitted that the petitioner deserves to be released on bail pending trial.

4. On the other hand, learned counsel for the State, on instructions from ASI Lakhwinder Singh, has submitted that the recovery was duly made from the petitioner. During search 260 grams of heroin was found in possession of the petitioner. Not only that there is one more case against the petitioner under the NDPS Act. However, it is not disputed that the petitioner is in custody since 05.07.2021 and that only one witness has been examined so far out of total eleven witnesses.

5. In view the above, but without expressing any further opinion on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial subject to his furnishing bail bonds/surety to the satisfaction of the Trial Court/Duty Magistrate, concerned.

5th September, 2023

‘raj’

(RAJBIR SEHRAWAT)

JUDGE

Whether speaking/reasoned:	Yes	No
Whether Reportable:	Yes	No