

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-5852-2023 (O & M)****Date of decision: 09.02.2023**

Amrik Singh

.... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Mohd. Yousaf, Advocate,
for the petitioner.

Mr. Shubham Kaushik, AAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in case FIR No.42 dated 09.03.2022 under Sections 21/61/85 of the NDPS Act, registered at Police Station Special Task Force, Jalandhar, District Jalandhar.

2. The brief facts of the case are that while the police party was on patrolling duty secret information was received that the petitioner-Amrik Singh was involved in the supply of heroin in the area. He would be coming to supply the same from Kharal Kalan to Bhogpur. If a *naka* was held, he could be arrested.

Based on the said information, a *naka* was set-up. One person was seen coming on a motorcycle bearing No.PB07-BW-9795 blue black colour make CT-100 Bajaj. He was apprehended and disclosed his name as Amrik Singh (petitioner). Thereafter, the recovery of 263 grams of heroin came to be effected from him.

3. The learned counsel for the petitioner contends that he has been

falsely implicated on account of political rivalry as he was an elected

member of Block Samiti Tanda. In fact, he had been picked up from village Harshi, Tehsil Tanda at the instance of one lady, namely, Ruby who owed money to him and implicated him in the present case. Reference is made to photographs (Annexure P-2) and CCTV footage (Annexure P-3) to contend that the petitioner was seen accompanying the police officials in the car thereby falsifying the prosecution version. Taking the allegations to be true, the recovery from him was of 263 grams of heroin which was marginally above the commercial quantity and therefore, the petitioner could be granted the concession of bail, *moreso*, because he was a first-time offender. Even otherwise, he is in custody since 09.03.2022 and none of the 15 prosecution witnesses had been examined so far which would delay the conclusion of the Trial.

4. The learned counsel for the State, on the other hand, contends that a commercial quantity of contraband was recovered from the petitioner. Therefore, the petitioner was not entitled to the grant of bail. He, however, does not dispute the period of custody undergone by the petitioner as also the stage of the Trial.

5. I have heard the learned counsel for the parties.

6. In the case of '**Sukhchain Singh @ Manga vs. State of Haryana (CRM-M-7857-2022 decided on 04.04.2022)**', where the recovery was of 265 grams of heroin, the petitioner was granted the concession of bail vide order dated 04.04.2022 passed in CRM-M-7857-2022 wherein it was held that where the recovery was marginally above the commercial quantity, the Court can grant bail pending trial to the accused. In the case of '**Pardeep Singh versus State of Punjab (CRM-M-46244-2022)**' where the recovery was of 260 grams of heroin, the petitioner was granted the

7. In the present case, the alleged recovery from the petitioner is of 263 grams of heroin which is marginally above the commercial quantity. Therefore, the petitioner can be granted the concession of bail, moreso, when he has clean antecedents, is in custody since 09.03.2022 and none of the 15 prosecution witnesses have been examined so far.
8. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner-Amrik Singh, is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.
9. The petitioner shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that he is not involved in any other case except the present one.
10. In addition, the petitioner (or someone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from Trial without sufficient cause.

(JASJIT SINGH BEDI)
JUDGE

February 09, 2023
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No