

CRM-M-7821 of 2022

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

CRM-M-7821 of 2022

Date of decision: 13.01.2023

Bablu Kumar

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Satnam Singh Gill, Advocate, for the petitioner.

Mr. Adhiraj Singh, AAG, Punjab.

NAMIT KUMAR, J. (ORAL)

In terms of order dated 14.10.2022, learned State counsel has filed custody certificate and affidavit of Satvir Singh, Deputy Superintendent of Police, Sub Division, Barnala, on behalf of the respondent-State, which is taken on record and a copy thereof has been supplied to learned counsel for the petitioner.

This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case FIR No.470 dated 16.09.2021 under Sections 18, 21, 25, 29, 61 and 85 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station City Barnala, District Barnala.

According to the prosecution, on 16.09.2021 Inspector Baljit Singh received a secret information that accused Surinder Kumar alias Rimpay and petitioner Bablu are habitual of selling the heroin and opium on

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their Verna Car no. 7950 of white colour and today also they have to supply the heroin and opium from Rampura to Barnala in the above said vehicle. If they are searched in the area of main road Barnala to Handiaya or near Barnala City then they could be caught red handed alongwith heroin and opium. As the information was from the reliable source and on the basis of this secret information case was got registered. Then further investigation was carried out by SI Gurbachan Singh. During the patrolling and nakabandi SI Gurbachan Singh along-with other police officials has apprehended petitioner and the co-accused in the jurisdiction of Handiaya and from their possession Varna car bearing registration no. DL-3CBP-7950 of white colour and 1 kg 800 gram opium was recovered and they were arrested in the present case. At the instance of accused Surinder Kumar, 1 kg 200 gram opium was recovered. During the investigation of the case and interrogation of accused Surinder Kumar, 16 gram opium was recovered from his house. On 18.09.2021 during the investigation in the present case, accused Vijay Kumar was nominated as an accused and he was arrested in the present case on 24.12.2021 and offence under Section 29 of NDPS Act was added upon.

Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in the present case as he was not present at the spot. The present recovery has been planted upon him. The alleged recovery falls under the category of “non-commercial quantity”. He further submits that petitioner is not involved in any other case under the NDPS Act. He further submits that out of total 30 prosecution witnesses, only one witness has been examined till date. Petitioner is in custody for

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more than 01 year and 03 months. Learned counsel further submits that conclusion of trial may take a considerable time. No useful purpose would be served by keeping the petitioner behind the bars, therefore, he may be granted regular bail.

Per contra, learned State counsel opposes the prayer for grant of regular bail to the petitioner, however, he could not refute the abovesaid factual position that contraband recovery from the petitioner falls under the category of “non-commercial quantity”; petitioner is in custody for the last 01 year 03 months and 19 days; challan has been presented and charges in the present case have been framed; out of 30 prosecution witnesses, only one witness has been examined till date and also the fact that no case is pending against the petitioner and that trial is likely to take a considerable time. The next date before the trial Court is 30.01.2023.

Considering overall facts and circumstances of the case, and keeping in view the custody period of the petitioner i.e. 01 year 03 months 19 days; out of 30 prosecution witnesses only witness has been examined till date and that trial is likely to take a considerable time to conclude, however, without commenting upon the merits of the case, the petitioner is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

The petition stands disposed off accordingly.

13.01.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No