

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-8875-2023
Date of decision:- 04.12.2023

Gurbhej Singh @ Bheja

... Petitioner

Versus

State of Punjab

.. Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr.Ruhani Chadha, Advocate
for the petitioner.

Mr.Anup Singh, AAG, Punjab.

SUVIR SEHGAL, J. (ORAL)

1. This third petition has been filed under Section 439 Cr.P.C.
seeking grant of post-arrest bail in:-

FIR No.	Dated	Police Station	Sections
181	09.08.2019	Sultanpur Lodhi, District Kapurthala	21 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “the NDPS Act”) wherein Section 29, NDPS Act was added later on.

2. FIR, Annexure P1 has been registered when during routine

patrolling, a young man was found moving in suspicious circumstances. When he was asked to stop, he tried to flee and threw a polythene bag from his pocket. He was apprehended and he disclosed his name as Salinder Singh @ Shinda and the polythene bag was found to contain 280 grams heroin.

3. Counsel for the petitioner contends that no recovery has been effected from the petitioner and he has been arraigned as accused on the basis of disclosure statement of the main accused on the allegation that the contraband had been purchased from him by Salinder Singh @ Shinda for Rs.2 lakhs. Counsel submits that the first petition preferred by the petitioner was withdrawn in July, 2021 with liberty to file a fresh one and the second petition was dismissed in March, 2022 as the petitioner could not give the details of the criminal cases in which he was named. By making a reference to para No.14 of the present petition, counsel for the petitioner submits that petitioner has been named as an accused in six cases registered under the NDPS Act out of which he has been acquitted in three cases and is facing trial in the remaining cases. Counsel submits that the petitioner is in custody since 18.07.2020 and deserves to be released on bail as the trial is not likely to conclude in near future.

4. Opposing the petition, learned State Counsel upon instructions and by making a reference to the status report urges that the petitioner is a drug peddler and in case he is granted bail, there is every likelihood that he would indulge in the sale and purchase of intoxicants. As per his instructions, six out of fifteen prosecution witnesses have been examined. Custody certificate dated 03.12.2023 has been filed by the State counsel, which is taken on

record.

5. I have considered the submission made by learned counsel for the parties and perused the material placed on record.

6. It could not be disputed that no recovery has been effected from the petitioner. In these circumstances, bar under Section 37 of NDPS Act would not apply as has been held by a Division Bench of this Court in **Dharamveer and another Versus State of Punjab** (CRM-M-25433-2015, decided on 07.10.2015). Although petitioner is involved in six other cases under NDPS Act but he has been acquitted in three of them. Therefore, the probability of the petitioner being falsely implicated in this case cannot be ruled out. Insofar as the present case is concerned, petitioner has been in custody for more than 40 months and the trial is not even mid-way. This Court is, therefore, *prima facie* of the view that the petitioner deserves to be enlarged on bail, though some conditions deserve to be imposed on him.

7. Without adverting to the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate, concerned.

8. While being released on bail, the petitioner will furnish an undertaking to the effect that he will not indulge in any unlawful activity. He shall also report with the SHO of the police station concerned on the first Monday of every month and keep him apprised of his movements during the pendency of the trial. In case, he violates the undertaking, it shall be open to the prosecution to seek cancellation of bail.

9. It is clarified that nothing said hereinabove shall be construed to

be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

04.12.2023

Brij

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No