

215 IN THE HIGH COURT OF PUNJAB AND HARYANA  
CHANDIGARH

CRM-M-10084-2023

Date of Decision: 10.04.2023

Kuldeep Singh @ Sunny

...Petitioner

V/S

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. APS Sandhu, Advocate  
for the petitioner.

Mr. Gurdarshan Singh Sandhu, AAG, Punjab.

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DEEPAK MANCHANDA J. Oral

Instant petition has been filed under Section 439 Cr.P.C. seeking regular bail in the case bearing FIR No.0013 dated 26.01.2022 (Annexure P-1) registered under Sections 21, 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Lopoke District Amritsar Rural.

Brief facts of the case are that while the police team was on patrolling duty, two persons were apprehended on the motorcycle and the person sitting on the pillion was having 750 grams of heroin in his possession in a polythene bag in his right hand whereas the driver(petitioner) of the motorcycle was having computerized weighing machine in the right pocket of his pants and on these allegations the said FIR was registered on 26.01.2022.

Learned counsel for the petitioner contends that the petitioner is innocent and has been falsely implicated in the present case and is in judicial custody since 26.01.2022, with no other criminal antecedents. Learned counsel further contends that no contraband or intoxicant substance has been recovered from the petitioner and as per FIR, the said contraband was recovered from the pillion rider, namely, Gurmeet Singh @ Geetu the other co-accused and as per

FIR, the petitioner was driving the motorcycle and the computerized weighing

machine was recovered from the pocket of the pants of the petitioner. It is also argued that petitioner was not having any knowledge that pillion rider the other co-accused i.e. Gurmeet Singh @ Geetu was having intoxicating substance in his possession and the same cannot be attributed to the petitioner and also the petitioner was of conscious knowledge of the alleged possession by Gurmeet Singh @ Geetu is a matter of trial. Learned counsel further submits that even if the allegations in the FIR are taken at their face value then allegations against the petitioner are that he was found to be in possession of computerized weighing machine and not the contraband. He further submits that since the contraband has not been recovered from the possession of the petitioner, no useful purpose would be served by keeping the petitioner behind the bars as challan has already been presented on 24.07.2022, charges have been framed on 27.07.2022, out of total 9 prosecution witnesses, none has been examined till today. He prays for grant of regular bail.

On the other hand, learned State Counsel on instructions from the Investigating Officer has opposed the aforesaid prayer on the ground that the petitioner is involved in the serious crime, however, does not dispute that the charges have been framed and no prosecution witnesses have been examined so far and petitioner has no other case pending against him.

Having heard learned counsel for the parties and gone through the case file and custody certificate filed by learned State counsel, it is significant to note that the petitioner is in custody for a period of 1 year 2 months and 6 days and no other case is pending against him. Further investigation of the case has also been completed and challan stands presented and the charges have already been framed on 27.07.2022. Therefore, no useful purpose would be served by keeping the petitioner in further incarceration.

As such, sufficient mitigating circumstances are made out to extend

the concession of bail to the petitioner. Therefore, without making any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

The petition is allowed.

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|---------------------------|--------------------|
| 10.04.2023                | (DEEPAK MANCHANDA) |
| sapna                     | JUDGE              |
| Whether speaking/reasoned | Yes/No             |
| Whether reportable        | Yes/No             |

