

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-10959-2023

Date of Decision:-12.04.2023

Vishal Sharma.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Sandeep Kumar Passi, Advocate for the Petitioner.

Mr. Kirat Singh Sidhu, Deputy Advocate General, Punjab.

JASJIT SINGH BEDI, J.

The present second petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in case FIR No.79 dated 17.03.2021 under Sections 21/29 of the NDPS Act, 1985; Section 14 of Foreigners Act, 1946 and Section 3 of Indian Passport Act, 1920 and later on added Section 25/27-A of the NDPS Act, 1985 registered at Police Station Ajnala, District Amritsar Rural, Punjab.

2. The brief facts of the case are that the on the night intervening 16-17/3/2021 a BSF team at the border observed the suspected movement of two persons from the Pakistani side. On search of the area a Phoenix Battery weighing 10.980 Kgs was recovered. On opening of the battery Heroin weighing 6.770 Kgs came to be recovered. Based on the said information, the aforementioned FIR came to be registered.

During the course of investigation, secret information was received by the investigating agency that Vishal Sharma (petitioner) and Prabhjit Singh had come to take delivery of the recovered heroin and were present near Surjit Hospital, Ajnala Road, Amritsar in a car bearing registration number DL-12-C-5341.

Vide DDR No.38 dated 17.03.2021 the petitioner came to be arrested. A recovery of Rs.15 lacs in Indian Currency was effected from him.

During the course of further investigation, the disclosure statement of the petitioner was recorded in which he confessed that one Satnam Singh @ Satta had relations with a Pakistani smuggler named Naseem Gujjar. Satnam Singh @ Satta had told him (petitioner) that Naseem Gujjar had sent Heroin to India and the same was to be supplied to his (Satnam Singh @ Satta's) contacts. Based on the said disclosure statement dated 18.03.2021, Satnam Singh @ Satta and Naseem Gujjar were nominated as accused vide DDR No.15 dated 18.03.2021.

3. The Counsel for the petitioner contends that the petitioner has been named in the disclosure statement of his co-accused which has no evidentiary value. The money recovered from the petitioner was not drug money but was to be paid as a sale consideration for the purchase of land measuring 08 Kanals. The agreement regarding the land is annexed with the petition. Though the petitioner was a convict in one case under the NDPS Act and an undertrial in another case, his sentence has been suspended in one case whereas he had been granted the concession of regular bail in other. Therefore, as the petitioner was in custody since 17.03.2021 and none of the 24 witnesses had been examined, the petitioner was entitled to the grant of bail. Reliance is placed on the order of this Court in case titled as ***Chamkaur Singh Vs. State of Haryana CRM-M-41585-2022 Decided on 22.12.2022.***

4. The Counsel for the State on the other hand contends that the petitioner is an international smuggler of Narcotics. As per investigation he was in close contact with one Satnam Singh @ Satta, who has close relations with Pakistani based smuggler of Narcotics. Therefore, the allegations pertained to cross border smuggling of narcotics. In view of the nature of allegations against the petitioner and his co-accused as also his criminal antecedents wherein he stands convicted in one case and is an undertrial in other he was not entitled to the grant of regular bail.

5. I have heard the rival contentions of both the parties.

6. Undoubtedly no recovery has been effected from the petitioner other than a cash amount of Rs.15 lacs. However, as per the investigation, the petitioner is closely connected with a Pakistani based smuggler of

narcotics. Therefore, the nature of allegations levelled against the petitioner do not entitle him to the grant of bail. Even otherwise, he is a convict in one case under the NDPS Act and an undertrial in another. Merely because his sentence has been suspended in one case and he has been granted the concession of regular bail in the other is not reason enough to grant him bail in the present case as well. So far as the case of *Chamkaur Singh (supra)* is concerned, it may be pertinent to mention that in the said case the allegations did not pertain to cross border smuggling of narcotics as are the allegations in the present case.

7. In view of the above, I find no merit in the present petition and the same is therefore dismissed.

(JASJIT SINGH BEDI)
JUDGE

April 12, 2023
Vinay

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No