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

**CRM-M-12420-2023
Date of Decision: 17.05.2023**

Ghaniya Lal

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Amit Sharma, Advocate
for the petitioner.

Mr. Aditya Kapoor, AAG, Punjab.

HARSH BUNGER J. (ORAL)

1. Petitioner (Ghaniya Lal) has filed the present petition under Section 439 of the Code of Criminal Procedure seeking grant of regular bail in case bearing FIR No.1 dated 01.01.2023, under Section 21-B of the Narcotic Drugs and Psychotropic Substances Act, registered at Police Station Meharban, District Ludhiana.

2. Upon issuance of notice, status report by way of affidavit dated 20.04.2023 of Mr. Gurdev Singh, P.P.S., Assistant Commissioner of Police (East), Ludhiana has been filed on behalf of State of Punjab, which is already on record.

3. Custody certificate dated 16.05.2023 of the petitioner is filed by learned State counsel in Court today, which is taken on record, subject to

all just exceptions.

4. Succinctly, the aforesaid FIR was registered on the complaint of Assistant Sub Inspector Husan Lal, alleging that on 01.01.2023, he, along with other police officials, was on patrolling duty in a private car, and when they were going to Bajra Cut, Road Meharbaan, then a man was seen waiting there for some vehicle, who, upon seeing the police party approaching towards him, took out one carry bag from his right pocket and threw it on the right side of the road and thereafter started taking steps back briskly. Subsequently, he was apprehended by the police, whereupon he disclosed his name as Ghaniya Lal (petitioner) s/o Dharam Lal and after following the due procedure of investigation, 33 grams of *heroin*, 1 electronic scale, 13 small transparent plastic envelopes and drug money of Rs.19,500 were recovered from him without any permit or licence.

5. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present FIR No.1 dated 01.01.2023 and the alleged recovery is a planted one. It is submitted that even otherwise, 33 grams of *heroin*, allegedly recovered in the instant case, is a non-commercial quantity and does not attract the rigors of Section 37 of the Narcotic Drugs and Psychotropic Substances Act. Learned counsel states that the petitioner applied for regular bail before the Judge, Special Court, Ludhiana, which was wrongly declined vide order dated 10.02.2023 (Annexure P-2). Learned counsel contends that the petitioner has undergone custody for a period of four months and thirteen days (as on 16.05.2023) in the present case; investigation in the case is complete, challan stands presented on 28.02.2023 and even charges have been framed on 14.03.2023. Trial in the case is likely to take long time to conclude and no useful purpose would be served with further incarceration of the petitioner.

Learned counsel for the petitioner submits that the petitioner is ready to abide by all the conditions as may be imposed by this Court or by the trial Court, accordingly prayer for grant of regular bail is made.

6. Learned State counsel opposes the plea of petitioner for grant of regular bail on the ground of seriousness and gravity of offences. Further, while referring to the custody certificate, learned State counsel submits that the petitioner is a habitual offender and two more cases, out of which, one (FIR No.181 dated 19.09.2022) being of similar nature, are also pending against him, however, it is stated that the petitioner is on bail in both the aforesaid cases. Learned State counsel fairly concedes the fact that the petitioner is in custody for a period of four months and thirteen days in the present case; investigation in the case is complete, challan stands presented and charges have also been framed.

7. I have heard learned counsel for the parties and perused the paper book as well as status report and custody certificate of the petitioner.

8. In this case, the petitioner is in custody for a period of four months and thirteen days (as on 16.05.2023). The recovery of 33 grams of *heroin* is non-commercial in nature and does not attract the rigors of Section 37 of the Narcotic Drugs and Psychotropic Substances Act. Investigation in the case is complete, challan stands submitted on 28.02.2023 and even charges have been framed on 14.03.2023. Trial in the case is likely to take some time in conclusion, hence no useful purpose would be served by keeping the petitioner behind bars for indefinite period.

9. Keeping in view the aforementioned circumstances, the instant petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the trial

Court/Illaq Magistrate/Duty Magistrate concerned. However, the concerned Station House Officer shall be informed about the release of petitioner and the petitioner shall inform the concerned Station House Officer about his address at which he intends to reside during the pendency of case/trial and any change in the address shall be communicated to the concerned Station House Officer, forthwith. The petitioner would also furnish his telephone number to the concerned Station House Officer. He would also furnish his undertaking to the effect that he will not indulge in any illegal activity. The petitioner shall also appear before the concerned Police Station/Station House Officer on first Monday of every month till the conclusion of trial and on each such appearance, the petitioner shall submit an affidavit to the concerned Police Station/Station House Officer that he is not involved in any other case, apart from the cases mentioned in custody certificate dated 16.05.2023.

10. In addition, the petitioner (or anyone on his behalf) shall prepare a Fixed Deposit Receipt (F.D.R.) in the sum of Rs.50,000/- and submit the same with the trial Court. The same would be liable to be forfeited as per law, in case the petitioner remains absent from trial without any sufficient cause.

11. Nothing expressed hereinabove shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for bail at this stage.

12. The petition is accordingly disposed of.

17.05.2023

Apurva

(HARSH BUNGER)
JUDGE