

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(227-1) CRM-M-12198-2023
Date of decision:- 11.09.2023

Love Kumar @ Noni ... Petitioner
Versus
State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Kapil Khanna, Advocate
for the petitioner.

Mr. Anup Singh, DAG, Punjab.

SUVIR SEHGAL, J. (ORAL)

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

FIR No.	Dated	Police Station	Sections
68	16.06.2022	Navi Baradari, District Jalandhar	21 and 22 of the NDPS Act, Section 25 of the Arms Act, 1959 (later on Section 29 of the NPDS and Sections 29 and 25 (8) of the Arms Act, 1959 were added)

2. Brief factual matrix leading to the filing of the petition is that during patrolling, a car was intercepted and the five accused were apprehended. The car was being driven by Sunny from whom intoxicating powder weighing 280 grams, 51 grams of Heroin, currency of Rs. 6 lacs,

one pistol, one magazine and 14 rounds were recovered. Smile, who was sitting on the navigator seat, was found to be in possession of 52 grams of Heroin, 270 grams of intoxicating powder, a weighing machine and one pistol and two magazines each containing seven rounds. Three persons were sitting on the rear seat namely, Divesh @ Vansh, Happy and Love Kumar alias Noni, present petitioner. Recovery of one pistol and magazine with seven rounds each was effected from Diveesh @ Vansh, one pistol and a magazine with five rounds from Happy and no recovery has been effected from Love Kumar alias Noni.

3. Counsel for the petitioner urges that the petitioner, who was merely an innocent traveller along with the other accused, has been apprehended merely on the basis of suspicion. He asserts that he was neither carrying any contraband nor was in possession of any firearm. Counsel submits that the petitioner has been named as an accused in an FIR registered against him for offence under Section 307, IPC, in which he has been released on bail. Counsel submits that the investigation qua the petitioner has been completed and as he is no longer needed for custodial interrogation, therefore, he deserves to be enlarged on bail.

4. *Per contra*, State counsel, upon instructions from HC, Gurdeep Singh, has opposed the petition and urges that the all the five accused were hand in glove and were involved in the sale and purchase of intoxicant substance. He submits that the recovery of contraband and arms shows that they were acting in connivance with each other. He has specific instructions to state that charge-sheet has been framed on 27.07.2023 and

out of twenty six prosecution witnesses, none has been examined.

5. I have considered the submissions made by counsel for the parties.

6. Noticing that neither recovery of any contraband nor any firearm has been effected from the petitioner and he is in detention for the last more than fourteen months, this Court is inclined to accept the prayer made in the petition. Still further, despite the fact that the charge has been framed, prosecution has failed to examine any witness, is another factor, which has weighed with this Court while accepting the prayer.

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 adequate bail/surety bonds to the satisfaction of the Area Magistrate/Duty Magistrate/Trial Court concerned.

8. Nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

11.09.2023

Kamal

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