

CRM-M-13210-2022 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-13210-2022 (O&M)

Date of decision: August 01, 2023

Amrik Singh

....Petitioner

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Arjunveer Sharma, Advocate for petitioner.

Ms. Guramrit Kaur, DAG Punjab.

ARUN MONGA, J. (ORAL)

CRM-30197-2023

For the reasons stated in application, same is allowed. Copy of challan as Annexure A-1 is taken on record, subject to all just exceptions.

Main case (O&M)

After being declined bail by the trial Court, petitioner before this Court seeks his release as undertrial in the second foray, in case bearing FIR No.192 dated 05.07.2020, registered under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') (Sections 21-C, 31, 25, 29 of NDPS Act and Section 207 of the Motor Vehicles Act, 1988 added later on), at Police Station, Bhawanigarh, District Sangrur, the first one having been disposed of while granting concession of interim bail awaiting FSL report, vide order dated 29.09.2020 passed by this Court in CRM-M-28972-2020.

2. Per prosecution version, on secret information, heavy quantity of contraband i.e., 800 grams heroin was recovered from the conscious possession of the petitioner and his co-accused, namely Sarabjit Singh. Further on the basis of disclosure statement of petitioner, 600 grams of heroin was also recovered, which also falls in the category of commercial quantity. An FIR was registered in this regard. Petitioner is in custody since 05.07.2020.

3. Learned counsel for petitioner submits that petitioner has been falsely implicated in this case. He further submits that FIR was registered on the basis of secret information, but the same was not reduced into writing and forwarded to immediate superior officer. There is violation of mandatory provisions of NDPS Act. Nothing is to be recovered from the petitioner. No useful purpose would be served by keeping petitioner behind bars.

4. Per contra, learned State counsel, assisted by ASI Jarnail Singh, opposes the bail petition. He submits that huge quantity of contraband has been recovered from the petitioner and his co-accused. Learned State counsel further contends that petitioner is a habitual offender as there are 5 more FIRs registered against him. There is every likelihood that petitioner may flee from trial proceedings. She further states that custodial interrogation of the petitioner is required.

5. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

6. It transpires that though challan was filed and charges were framed on 16.03.2022, there are 5 more cases registered against the petitioner. On a Court query, learned State counsel submits that out of total 34 witnesses, 01 has been examined.

7. Given the antecedents of the petitioner, and conduct, particularly misuse of parole by petitioner while he was undergoing conviction in another NDPS case where he was sentenced for 10 years rigorous imprisonment, he is not entitled for any concession. Having seen the conduct and antecedents of the petitioner, the same do not inspire confidence. I am of the view that he is not entitled to any concession at this stage, as possibility of misusing the same by petitioner again cannot be ruled out. There are total 34 witnesses and only 1 is stated to have been examined so far. Trial is at a very nascent stage. In the premise, I find force in the contention of learned State counsel that in case petitioner is let out at this stage, there is every possibility of his tampering with evidence and influencing the witnesses and/or fleeing from trial proceedings.

8. As an upshot, no indulgence is warranted by this Court to grant concession of bail to petitioner at this stage. Instant bail petition is thus dismissed.

9. It is made clear that any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are limited to the disposal of the bail application alone and learned trial Court shall proceed in accordance with law without being influenced by this order.
10. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

August 01, 2023

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No