

CRM-M-13867-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-13867-2023
Reserved on: 07.07.2023
Pronounced on:11.07.2023

Gurdev @ Debi ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. R.P. Dhir, Advocate for the petitioner.

Mr. Karunesh Kaushal, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
81	09.07.2022	Bhogpur, District Jalandhar	21(c)/29/61/85 of NDPS Act

1. The petitioner incarcerated for violating the above-mentioned provisions of Narcotics Drugs and Psychotropic Substances Act, 1985 (NDPS Act) as per the FIR captioned above, on the allegations of possessing 265 grams of heroin, has come up before this Court under Section 439 CrPC seeking bail.
2. As per custody certificate, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offences	Police Station	Quantity involved
1	139	30.06.2013	420/120-B IPC and 24 of Immigration Act	Salem Tabri	--
2	93	27.05.2019	22/61/85 of NDPS Act	Bhogpur	--
3	145	30.06.2013	15/61/85 of NDPS Act	Salem Tabri	--
4	112	22.07.2018	22/61/85 of NDPS Act	Bhogpur (conviction completed on 30.11.2022)	--
5	140	01.07.2013	21 of NDPS Act	Salem Tabri (Sentence already undergone on 08.05.2014)	--
6	62	07.12.2011	399/420 IPC and 25/54/59 of Arms Act	Gardhiwal	--
7	25	26.03.2017	15/18/21/22/61/85 of NDPS Act	Bhogpur	--
8	275	19.12.2017	22 of NDPS Act	Kartarpur	

9	42	27.03.2022	21-B/25/61/85 of NDPS Act	Bhogpur	--
10	125	14.10.2021	457/380/411/120-B IPC	Bhogpur	--
11	137	13.08.2017	21/61/85 of NDPS Act	Bhogpur	--
12	182	08.08.2018	52-A of Prison Act	Kotwal Kapurthala	--
13	77	20.05.2018	323/325 IPC	Bhogpur	--
14	43	27.03.2022	21-A/25/61/85 of NDPS	Bhogpur	--
15	55	14.04.2021	21-B/29 of NDPS Act	Bhogpur	--

3. The petitioner contends that the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.

4. While opposing the bail, the State contends that given the criminal past, the accused is likely to indulge in crime once released on bail.

REASONING:

5. The petitioner has a massive number of criminal cases against him as mentioned above and out of total of 15 cases, 10 are under NDPS Act. The petitioner had committed the present offence only because he was granted bail in earlier cases. In the present case, custody of the petitioner is 11 months & 24 days. Considering the petitioner’s conduct of not mending his ways at all and also in the light of massive criminal history against him, there is likelihood that in case this Court grants him bail he might again indulge in similar offence. It shall be prejudicial to the society at large and it cannot be done.

6. InParamjeet Singh v. State of Punjab, **2022:PHHC:003983 [Para 8]**, CRM-M 50243 of 2021, this court observed,

While considering each bail petition of the accused with a criminal history, it throws an onerous responsibility upon the Courts to act judiciously with reasonableness because arbitrariness is the antithesis of law. The criminal history must be of cases where the accused was convicted, including the suspended sentences and all pending First Information Reports, wherein the bail petitioner stands arraigned as an accused. In reckoning the number of cases as criminal history, the prosecutions resulting in acquittal or discharge, or when Courts quashed the FIR; the prosecution stands withdrawn, or prosecution filed a closure report; cannot be included. Although crime is to be despised and not the criminal, yet for a recidivist, the contours of a playing field are marshy, and graver the criminal history, slushier the puddles.

7. The quantity involved in the present case is 265 grams of heroin which is at the top most limit of intermediate quantity.

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8. A perusal of the bail petition and the documents attached, prima facie points towards the petitioner's involvement and does not make out a case for bail. Any further discussions are likely to prejudice the petitioner; this court refrains from doing so.

9. Any observation made hereinabove is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

The petition is dismissed. However, considering the petitioners' custody, this court requests the concerned trial court to make all endeavours to conclude the trial by Sep 30, 2023, of which the prosecution evidence be completed by Aug 31, 2023, and the remaining time to provide an opportunity to the accused to lead defence evidence, if so desired. It is clarified that this order speeding-up the trial is subject to the condition that neither the petitioner shall seek any adjournment nor try to use any tactics to delay the trial. If they do so, this order of expediting the trial shall stand automatically recalled by resorting to Section 362, read with Section 482 Code of Criminal Procedure, 1973, without any further reference to this court. All pending applications, if any, stand closed.

(ANOOP CHITKARA)
JUDGE

11.07.2023
anju rani

Whether speaking/reasoned:	Yes
Whether reportable:	No.