

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-14964-2023 (O&M)

Date of Decision: 1.6.2023

Saraj Singh

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. G.S.Sandhu, Advocate
for the petitioner.

Mr. C.L.Pawar, Addl. AG, Punjab

KARAMJIT SINGH, J. (Oral)

CRM-25541-2023

Notice of the application.

2. Mr. C.L.Pawar, Addl. AG, Punjab accepts notice on behalf of the State and pleads no objection if the same is allowed.

3. Accordingly, the application is allowed and the main case is taken on board today itself.

Main case

Prayer in the present petition under Section 439 of Code of Criminal Procedure is for grant of regular bail to the petitioner in case FIR No.016 dated 21.1.2023 registered for the offences punishable under Sections 21(b), 27(A) of NDPS Act at Police Station Kabarwala, District Sri Muktsar Sahib.

2. The allegations in nutshell are that the police apprehended the petitioner along with 8 grams of Heroin and cash worth ₹ 14000/- on

21.1.2023. Thereafter, on the basis of the disclosure statement, the petitioner further got recovered 2 grams of Heroin and amount of ₹ 1000/-.

3. Counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case and even otherwise, the alleged recovery of 10 grams of Heroin comes under non-commercial quantity and thus, strict provisions of Section 37 of NDPS Act are not attracted to the instant case. He further submits that in all other cases registered under NDPS Act, the petitioner is already enlarged on bail. He further submits that the case is at its initial stage and charges are still to be framed. So, prayer is made that the petitioner be released on regular bail.

4. Present petition is resisted by the State counsel who submits that apart from 10 grams of Heroin, drug money worth ₹ 15,000/- was also recovered from possession of the petitioner who was arrested by the police on 21.1.2023. State counsel further apprised the Court that 4 other criminal cases under NDPS Act are registered against the petitioner, out of which, the petitioner is enlarged on bail in 2 cases.

5. Counsel for the petitioner clarified that in all the other criminal cases, the petitioner is on bail.

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

7. Admittedly, 10 grams of Heroin comes under non-commercial quantity and thus, embargo provided under Section 37 of NDPS Act is not applicable to the same. It is matter of evidence as to whether recovery of cash worth ₹ 15,000/- stated to be effected from the petitioner is deemed to be 'drug money'. The petitioner is in custody since 21.1.2023 and after

completion of investigation, the police has presented the challan but till

date, charges are not framed. In the given circumstances, no useful purpose is going to be served by keeping the petitioner in custody for any further period.

7. In view of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(KARAMJIT SINGH)

JUDGE

June 1, 2023

Paritosh Kumar

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