

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

CRM-M-15597-2023

Date of Decision: 12.05.2023

KOMAL KUMAR

..... PETITIONER(S)

VS

STATE OF PUNJAB

..... RESPONDENT(S)

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

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

Mr. Sarabjit Singh Cheema, DAG, Punjab.

GURBIR SINGH, J. (ORAL)

The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No. 9 dated 07.01.2023 under Sections 21,61,85 NDPS Act registered at Police Station Rama Mandi District Jalandhar.

As per prosecution version, on 07.01.2023 police party headed by SI Sukhraj Singh was on patrolling duty. Two youths on seeing the police party tried to turn back but they were apprehended and were enquired about their whereabouts. On asking, one of the accused disclosed his name as Sandeep and the other accused disclosed his name as Komal Kumar. Their search was conducted as per rules. From the personal search of accused Sandeep, a polythene bag containing 200 grams of heroin was recovered from the right pocket of his pants which he was wearing and from the search of the accused Komal Kumar, 200 grams of heroin was recovered from his trouser. The same was taken into possession as per rules.

Learned counsel for the petitioner submits that recovery of heroin is of non-commercial in nature. The recovery from both the accused cannot be joined together. He has placed reliance upon judgments of “*Amar Singh Ramjibhai Barot Versus State of Gujrat*” in Criminal Appeal No. 1218-2005 decided on 19.09.2005 by Hon’ble Apex Court, “*Samit Gandhi @ Prakash Bhuyan Vs. State of Gujarat*” in SLP 11112-2022 decided on 22.03.2023 by Hon’ble Supreme Court of India and “*Ranjit Kaur @ Gindo Vs. State of Punjab*” in CRM-M47826-2022 decided on 03.02.2023 passed by Co-ordinate Bench of this Hon’ble Court.

Learned State counsel has opposed the prayer made by the learned counsel for the petitioner and submits that both the petitioners known to each other, were going together. The recovery effected from both of them, is required to be joined together. The recovery falls under commercial quantity, and therefore petitioner is not entitled for bail.

Heard.

As per the version of the prosecution, 200 grams of heroin was recovered from the possession of the accused. Same was recovered on his personal search from the pocket of his pants which he was wearing. Similarly from co-accused, 200 grams of heroin was recovered from the pocket of the pants which he was wearing.

In case, “*Amarsingh Ramjibhai Barot Vs. State of Gujarat*” cited supra Hon’ble Supreme Court has held that quantity of contraband carried by both the accused could not be added to bring it within meaning of commercial quantity and Section 29 will not be attracted.

In a judgement titled as “*Ranjit Kaur @ Gindo Vs. State of*

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Punjab” in CRM-M47826-2022 dated 03.02.2023 passed by Co-ordinate Bench of this Hon’ble Court, concession of regular bail has been granted to the petitioner. In that case also there were three persons including the petitioner and 250 grams of heroin from each one of them was recovered.

Since the petitioner is in custody. The completion of trial will also take a long time, no useful purpose would be served by keeping the petitioner behind bars for a long period.

Accordingly, without commenting upon the merits of the case, the present petition is allowed and the petitioner is directed to be released on regular bail, on his furnishing bail bonds/surety bonds, to the satisfaction of learned Trial Court/Duty Magistrate, concerned.

(GURBIR SINGH)
JUDGE

12.05.2023

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Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No