

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(207)

2023:PHHC:056454
CRM-M-18027-2023
Date of Decision: 21.04.2023

Varinder Thakur @ Vicky

--Petitioner

Versus

State of Punjab

--Respondent

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Mr. Kunal Choksi, Advocate for the petitioner.

Mr. Karunesh Kaushal, A.A.G., Punjab.

RAJESH BHARDWAJ.J (Oral)

The present petition has been filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in case FIR No.26 dated 9.2.2020 under sections 21, 29, 61, 85 of NDPS Act, registered at Police Station, STF Phase-4, Mohali District SAS Nagar.

As per factual matrix, the police party received a secret information that Jatinder Singh @ Sonu @ Happy Jain along with his friend Varinder Thakur @ Vicky i.e. the present petitioner, who was confined in Central Jail, Ludhiana and has kept a mobile phone no.81988-99645 in jail were involved in the smuggling of heroin. Varinder Thakur communicated with Jatinder Singh from the jail through the said mobile phone number and they procured the heroin on lesser price from some Negro from Delhi. On the basis of the secret information the necessary formalities were completed and present FIR was registered. In pursuance to the secret information a Naka was laid and the co-accused Jatinder Singh was arrested and a recovery of 840 grams heroin was effected from him. Co-accused Jatinder Singh was arrested on the spot and the investigation commenced. Petitioner

Varinder Thakur @ Vicky was already in jail in some other case and thus he was also formally arrested in the present case. He approached learned Judge, Special Court, Ludhiana for grant of bail, however, after hearing the parties, the same was declined vide order dated 25.3.2021. Aggrieved by the same petitioner has approached this court for grant of bail.

Learned counsel for the petitioner vehemently contends that petitioner has been falsely implicated in the present case. It is submitted that petitioner was already in jail and he has been implicated in this case in a pre-planned manner on the basis of alleged secret information. Counsel submits that recovery of 840 grams of heroin was effected from the co-accused Jatinder Singh, who was allegedly arrested on the spot and thus there was no recovery effected from the present petitioner. It is submitted that co-accused Jatinder Singh from whom the alleged recovery has been effected has already been enlarged on bail by this court vide order dated 8.11.2021. Counsel further submits that petitioner is involved in about 21 more cases, however, in majority of the cases he has already completed the sentence awarded. It is also submitted that the alleged mobile phone does not belong to the petitioner. It is submitted that petitioner has already completed a custody period of more than 3 years in the present case and thus he deserves to be granted bail.

On the other hand, learned State counsel on instructions from ASI Gulshan Kumar has opposed the submissions made by counsel for petitioner. It is submitted that petitioner is a habitual offender as he is involved in about 21 other cases pertaining to NDPS Act as well as to IPC. It is submitted that as per the custody certificate of the petitioner in majority

of cases petitioner has already completed his sentence and in one case he has been acquitted. It is submitted that out of the total 19 prosecution witnesses in this case, 3 already stand examined by the learned Trial Court.

I have heard learned counsel+ for the parties at length and have gone through the records carefully.

Admittedly, petitioner is behind bars for the last about 3 years in the present case. At the time of alleged recovery petitioner was admittedly in the jail. Case in hand is based on a secret information, however, the alleged recovery has been effected from the co-accused namely Jatinder Singh, who has already been granted benefit of bail vide order dated 8.11.2021. Though, petitioner is involved in many other cases, however, this court cannot ignore the fact that petitioner has completed a sufficient tenure of incarceration in the present case. Out of the total 19 prosecution witnesses only 3 have been examined by the Trial Court so far.

This court would refrain itself from commenting on the merits of the case, as the allegations and counter allegations would be assessed only after evaluation of the complete evidence led by both the sides before the Trial Court. The trial would take sufficiently long time in its conclusion.

In the totality of facts and circumstances and without making any observation on merits, present petition is allowed. Petitioner be enlarged on bail on his furnishing bail/surety bonds subject to satisfaction of Trial Court/Duty Magistrate, concerned. It has been clarified that if the petitioner does not file his bail bonds/surety bonds, his custody would not

be counted in the present case. Nothing stated herein shall be treated as an expression on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

21.04.2023

lucky	Whether speaking/reasoned:	Yes/No
	Whether Reportable:	Yes/No