

2023:PHHC:102242

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

206

CRM-M-19791-2023

Date of Decision : 08.08.2023

Sanjiv Kumar @ Sunny

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present : Mr. Monty Goyal, Advocate
for the petitioner.

Mr. Vinay Kumar Gupta, A.A.G, Punjab
for the respondent-State.

NAMIT KUMAR, J. (ORAL)

1. The petitioner has filed the present (second) petition under Section 439 of Cr.P.C. seeking grant of regular bail in case FIR No.43 dated 29.05.2019 registered under Sections 21, 25, 27-A and 29 of NDPS Act, 1985 at Police Station Special Task Force, District SAS Nagar.

2. Brief facts of the case are that on 29.05.2019, ASI Jaipal Singh alongwith other police officials, on vehicle i.e. Bolero Camper bearing registration No.PB-10-GK-6045 was present near Gill Canal Bridge, Gill Road, Ludhiana in connection with search of the smugglers indulging in intoxicant substances smuggling, where at about 12.30 PM, he received a secret information that Krishan @ Kala, Sanjiv Kumar @ Sunny (the petitioner), Payal and Poonam Rani, against whom number

of cases under the NDPS Act have been registered, have indulged in the illegal business of selling heroin in the State of Punjab and on that day, they all are coming together in a Swift car bearing registration No.PB-10-FC-2234 colour white for supplying heroin to their customers. On the basis of said information, the aforesaid car was apprehended, in which two men and two women were sitting and out of them, the petitioner Sanjeev Kumar @ Sunny succeeded in fleeing. During search of the aforesaid car as well as other occupants, 900 grams of heroin kept in red purse carried by co-accused Payal was recovered, whereas, co-accused Krishan @ Kala was found in possession of 300 grams of heroin and co-accused Poonam was found in possession of 01 kilograms heroin alongwith drug money of Rs.2 Lacs in the area of Gill Canal Bridge, Gill Road, Ludhiana falling within the jurisdictional limits of Police Station Special Task Force, SAS Nagar.

3. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in the present case. The petitioner was not apprehended on the spot and nothing has been recovered from him. The petitioner has nothing to do with the alleged contraband recovered from the other co-accused. Moreover, co-accused Payal, Poonam Rani and Kewal Krishan @ Kala have already been granted concession of regular bail by this Court vide order dated 08.04.2021, 04.04.2022 and 08.12.2022 respectively. He further submits that petitioner is in custody since 12.07.2022 and trial may take a considerable time to conclude, therefore, no fruitful purpose would be served by detaining the petitioner behind bars.

4. Per contra, learned State counsel while placing on record custody certificate dated 06.08.2023 has vehemently opposed the present petition on the ground that 2 kgs 200 grams of heroin has been recovered from the accused which falls under the category of commercial quantity. He further submits that the petitioner is also involved in 03 other cases out of which 02 are under the NDPS Act. Therefore, the present petition may be dismissed.

5. I have heard learned counsel for the parties and perused the record.

6. Perusal of FIR shows that the allegations against the petitioner are grave and serious in nature. As per allegations, total 2 kg. 200 grams of heroin has been recovered from the accused in the present case which falls in the category of 'commercial' quantity which attracts rigors of Section 37 of the NDPS Act. Co-accused Payal from whom, 900 grams heroin has been recovered is the wife of the petitioner and was arrested from the spot alongwith the contraband. The petitioner has fled away from the spot which shows his connivance with other co-accused. Furthermore, the antecedents of the petitioner are also not good as he is involved in 02 more cases under the NDPS Act.

7. Moreover, this is second petition filed by the petitioner for grant of regular bail. His first petition i.e. CRM-M-54125-2022 was got dismissed as withdrawn on 23.03.2023. After arguing the first petition and when sensed that the Court was not inclined to grant relief, learned counsel for the petitioner had withdrawn the same. Now, after a period of only 01 month the petitioner has filed the present petition for grant of

regular bail.

8. The law relating to successive bail applications is well settled. An accused has right to make successive applications for grant of bail. But the Court entertaining such subsequent bail applications has a duty to consider the reasons and grounds on which the earlier bail applications were rejected. In such cases, the Court also has a duty to record what are the fresh grounds which persuade it to take a view different from the one taken in the earlier applications (*See Kalyan Chandra Sarkar v. Rajesh Ranjan @ Pappu Yadav : AIR 2004 SC 1866*). A bail application in a case where earlier applications have been rejected is maintainable only when there is a change in the fact situation or in law which requires the earlier view being interfered with or where the earlier finding has become obsolete (*See Kalyan Chandra Sarkar v. Rajesh Ranjan @ Pappu Yadav : AIR 2005 SC 921*).

9. A perusal of the averments made in this second bail petition shows that the petitioner has failed to show any better or fresh particulars in this petition which were not demonstrated in the earlier petition nor any substantial change in the circumstances have been pointed out by learned counsel for the petitioner.

10. Having considered the above aspects, in the absence of any change in fact situation or law with regard to the case in hand, I find that the petitioner is not entitled to grant of regular bail. Consequently, the instant petition is dismissed.

08.08.2023

Kothiyal

(NAMIT KUMAR)

JUDGE

Whether Speaking/reasoned

Whether Reportable

Yes/No

Yes/No