

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M 21493 of 2023
Date of Decision: 22.05.2023

Lakhvir Singh @ Happy

.....*Petitioner*

Versus

State of Punjab

.....*Respondent*

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH.

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

Mr. Sarabjit Singh Cheema, DAG, Punjab.

GURBIR SINGH, J (ORAL)

The prayer in this petition is for grant of regular bail under Section 439 Cr. P.C. in case FIR No.21 dated 14.03.2022, under Section 21 of NDPS Act (Section 22, 29 of NDPS Act and Sections 379 and 411 IPC added later on), registered at Police Station Sadar Zira, District Ferozepur, Punjab.

As per allegation, 14 grams of heroin was recovered from the polythene bag which was thrown by co-accused Gajjan Singh. Both the petitioner and co-accused Gajjan Singh were standing near the motorcycle and the said motorcycle was also found to be a stolen property. The recovery of 1020 intoxicant tablets was effected from the disclosed place on the disclosure statement of co-accused Gajjan Singh.

Learned counsel for the petitioner submits that the petitioner is in custody since 14.03.2022. The recovery, if any, which can be attributed to the petitioner is of 14 grams of heroin and the same was actually from Gajjan Singh, who had thrown the polythene bag and the other recovery of

1020 tablets cannot be attributed to the petitioner. Since, same was effected

on the disclosure statement of the co-accused Gajjan Singh, made under Section 27 of the Indian Evidence Act. He further submits that co-accused Gajjan Singh has already expired and is not facing the trial.

Status report by way of affidavit of Palwinder Singh, PPS, Deputy Superintendent of Police, Zira, District Ferozepur, on behalf of respondent-State, is filed in Court today. The same is taken on record.

On the other hand, the prayer is opposed by learned State counsel but he does not dispute that the petitioner is in custody since 14.03.2022. He submits that co-accused Gajjan Singh has since expired. He further submits that the petitioner is also involved in case FIR No.95 dated 16.09.2019 under Section 21/25 of NDPS Act, PS Sadar Moga.

Learned counsel for the petitioner further submits that the recovery in the said FIR No.95 dated 16.09.2019 was of non-commercial quantity and the petitioner has already been granted the concession of bail in said case.

Heard.

The recovery which can be attributed to the petitioner is only of 14 grams of heroin which is of non-commercial quantity. Petitioner is in custody since 14.03.2022, the other recovery was from the exclusive possession of the co-accused Gajjan Singh and there is nothing on the file that petitioner was anyway related with the said recovery which was got effected by Gajjan Singh. Culpability of the petitioner would be decided during the trial of the case.

Without commenting anything on the merits of the case and taking into account the custody period besides the fact that the trial is not likely to be concluded in near future, in my opinion, no useful purpose

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would be served by detaining the petitioner behind the bars any further. The petition, as such, is *allowed*. Petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court/Duty Magistrate, concerned.

If any attempt whatsoever is made by the petitioner to contact/threaten/intimidate any witness of this case or he is involved in any such case during bail, the State shall be at liberty to move an application for cancellation of bail granted vide this order.

22.05.2023
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**(GURBIR SINGH)
JUDGE**

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