

CRM-M-32767-2023

-1-

(246) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-32767-2023

Date of Decision: 17.07.2023

GURNAM SINGH @ BABLU

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. K.S. Bal, Advocate
for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

JASJIT SINGH BEDI, J.

The prayer in the petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.31 dated 26.02.2021 registered under Sections 21-C/25/29/61/85 of NDPS Act at Police Station STF, District SAS Nagar.

2. The brief facts of the case are that while the police party was on patrolling duty, secret information was received that Gurnam Singh @ Bablu (petitioner) and Gurpreet Singh @ Gopi (granted bail vide order dated 23.03.2022 passed in CRM-M-45214-2021 Annexure P-2) sons of Desa Singh were indulging in the supply of heroin in the area. If a *Nakabandi* was set up on the Bhitewind to Chugawan Road, the accused could be nabbed with a heavy quantity of heroin. The police party reached at the spot as disclosed by the informer and after some time, one black colour Splendor motorcycle was seen coming bearing Registration No.PB02BA31375. The

driver disclosed his name as Gurnam Singh @ Bablu (petitioner) and the pillion rider disclosed his name as Gurpreet Singh alias Gopi. After complying with the provisions of the Act, a polythene packet was recovered from the tool box of the black colour Splendor motorcycle which on being weighed came out to be 255 grams containing heroin.

3. The learned counsel for the petitioner contends that the petitioner and his co-accused have been falsely implicated in the present case. The petitioner has been in custody since 26.02.2021 and none of the 13 prosecution witnesses have been examined so far. Therefore, the trial of the present case was not likely to be concluded anytime soon. Even otherwise, as the recovery from the petitioner was marginally above the commercial quantity of 250 grams of heroin, the petitioner was entitled to the grant of bail, moreso, when his co-accused Gurpreet Singh @ Gopy had been granted the similar concession and in the one other case registered against him, he had been granted bail vide order dated 05.10.2015 (Annexure P-5) for allegedly being in possession of 100 grams of intoxicating powder.

4. On the other hand, the learned State counsel contends that the commercial quantity of contraband has been recovered from the petitioner and his co-accused. Therefore, he was not entitled to the concession of bail in view of the bar contained under Section 37 of the NDPS Act. Even otherwise, he is a habitual offender with one other case registered him. He, however, concedes that in the said case, the petitioner has been granted the concession of bail and the report under Section 173 Cr.P.C. has not yet been filed. He also concedes that the co-accused of the petitioner has been granted the concession of bail.

CRM-M-32767-2023

-3-

5. I have heard the learned counsel for the parties.

6. In the cases of 'Sukhchain Singh @ Manga Versus State of Punjab, CRM-M-7857-2022 decided on 04.04.2022, Pardeep Singh versus State of Punjab, CRM-M-46244-2022 decided on 19.01.2023, Hari Yadav @ Haiya versus State of Punjab (CRM-M-37645-2021)' decided on 11.11.2022, 'Jang Kanwar Versus State of Punjab (CRM-M-53415-2021)' decided on 19.01.2022, 'Shankar Prashad Chanau Versus The State of Punjab, CRM-M-24090-2020, decided on 27.08.2020, Gurpreet Kumar Versus State of Punjab, CRM-M-17021-2021, decided on 31.08.2021, Salim Versus State of Haryana, CRM-M-42436-2020, decided on 24.02.2021, Gagandeep Versus State of Punjab, CRM-M-3055-2021, decided on 27.01.2021, Gurpreet Singh @ Gopi Versus State of Punjab, CRM-M-41039-2019, decided on 26.02.2020, Dalbara Singh Versus State of Punjab, CRM-M-47880-2022 decided on 16.01.2023', and Vivek Watts versus State of Punjab, CRM-M-13791-2022 decided on 15.02.2023, where the recovery from the accused was marginally above the commercial quantity for the respective contraband in each case, the Court granted bail to the accused therein.

7. In the present case, the alleged recovery from the petitioner and his co-accused is of 255 grams of heroin, which is marginally above the commercial quantity of 250 grams. In this situation, the provisions of Section 37 of the NDPS Act can be relaxed to an extent and the case of the petitioner can be considered for the grant of bail, moreso, when he is in custody since 26.02.2021, none of the 13 prosecution witnesses have been examined so far

CRM-M-32767-2023

-4-

and his co-accused, namely, Gurpreet Singh @ Gopi have been granted the similar relief.

8. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Gurnam Singh @ Bablu son of Desa Singh is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. The petitioner shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that he is not involved in any other case other than the cases mentioned in this order.

10. In addition, the petitioner (or someone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from Trial without sufficient cause.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

17.07.2023

JITESH

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No