

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(216)

CRM-M-27262-2023
Date of decision:- 08.12.2023

Sukhdeep Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Manvinder Singh Sidhu, Advocate,
Mr. Chetan Sehgal, Advocate and
Mr. Kartik Midha, Advocate
for the petitioner.

Mr. A.P.S.Tung, DAG, Punjab.
for State-respondent.

SUVIR SEHGAL, J. (ORAL)

1. Instant petition has been filed under Section 439, Cr.P.C. seeking grant of post-arrest bail in:-

FIR No.	Dated	Police Station	Sections
54	06.04.2023	City Kotkapura, District Faridkot	21 (c) and 29 of the NDPS Act

2. Version of the prosecution is that during routine patrolling, a car was intercepted and on enquiry, the driver disclosed his name as Sukhdeep Singh, present petitioner. A transparent polythene bag was found in the car, which on analysis was found to contain 260 grams of heroin.

3. Counsel for the petitioner submits that the recovered intoxicating substance does not belong to the petitioner and in fact he had given a lift to

a co-villager, Manjinder Singh @ Deepu, who left the polythene bag in the car and fled away when the police team signalled the vehicle to halt. Counsel submits that on the statement of the petitioner, Manjinder Singh @ Deepu has been arraigned as a co-accused and has been released on anticipatory bail by this Court. Counsel submits that the petitioner, who has a clean past and has been falsely implicated, deserves to be enlarged on bail as investigation qua him is complete.

4. *Per contra*, State counsel, upon instructions from ASI, Satish Kumar, submits that the story projected by the petitioner is factually incorrect as there was only one occupant in the car. He has filed Custody Certificate dated 07.12.2023, which is taken on record and could not dispute the clean antecedents of the petitioner. As per his instructions, charge has been framed in September, 2023, but out of seventeen prosecution witnesses, none has been examined. He has opposed the petition by submitting that bail cannot be granted in view of the stringent provision of Section 37 of the NDPS Act.

5. I have heard counsel for the parties and considered their respective submissions.

6. This Court in ***Jatin Arora @ Jatin Versus State of Punjab (CRM-M-18775-2021*** decided on 07.07.2021) has held that where the alleged recovery is slightly more than the quantity prescribed for commercial quantity under the NDPS Act and the accused enjoys clean antecedents, the benefit of bail can be extended. Noticing the length of custody of eight months, the stage of trial and the nature of allegations levelled against the petitioner, this Court is inclined to accept the prayer made in the petition.

7. Without adverting to the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be released on bail on furnishing adequate bail/surety bonds to the satisfaction of the Area Magistrate/Duty Magistrate/Trial Court concerned.
8. Nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

08.12.2023

Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No