

S. No.112+224

2023:PHHC:131361

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-32872 of 2021 (O&M)

Date of Decision:10.10.2023

Sunil Kumar @ Baba

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. B.S. Bhalla, Advocate for the petitioner.

Mr. R.S. Khaira, DAG, Punjab.

DEEPAK GUPTA, J. (Oral)

CRM No.40244 of 2023

This is an application for placing on record statements of PW1, PW2 and PW6 as Annexures P.5 to P.7.

Application is allowed. Annexures P.5 to P.7 are taken on record.

CRM-M-32872 of 2021

By way of present petition filed under Section 439 Cr.P.C., petitioner has prayed for grant of regular bail in case FIR No.69 dated 27.04.2021 registered under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 and 25 of Arms Act, 1959 at Police Station City South Moga, District Moga.

As per prosecution allegations, secret information was received against co-accused Chamkaur Singh and petitioner – Sunil Kumar @ Baba to the effect that they were in the business of keeping intoxicant tablets and illegal weapons. Petitioner and co-accused were apprehended. 1150 tablets containing '*Tramadol*' and pistol of .32 bore along with 4 live cartridges were recovered.

Contention of learned counsel for the petitioner is that no recovery of contraband was effected from the petitioner.

On 19.08.2021, following order was passed by this Court:-

“Learned State counsel requests for a short adjournment to furnish accurate information on the basis of recovery memo as to from whom what quantity of contraband was recovered and also as regards the weapons recovered. It be also specified as to whether the contraband was recovered pursuant to any disclosure statement or pursuant to personal search or search of the scooty.

List on 4.10.2021.”

Learned counsel for the petitioner has drawn attention of this Court towards Annexure P.4, which is the statement of PW2 SI Pal Singh, wherein he has specifically stated that the search of accused Sunil Kumar @ Baba i.e. petitioner resulted into recovery of country made pistol of .32 bore from his left dub, the description of which was noted by him.

Learned counsel for the petitioner has further drawn attention towards statement of PW6- retired Inspector Balraj Mohan (Annexure P.7), wherein he has specifically deposed that inventory was not prepared qua accused Sunil Kumar @ Baba as no contraband was recovered from his possession relating to alleged contraband.

Learned counsel further submits that petitioner is in custody since 27.04.2021 i.e. for the last more than two years and five months and that the trial may take time to conclude as out of 14 witnesses cited by the prosecution, only 06 have been examined so far, therefore, the petitioner be allowed bail.

Learned State Counsel has opposed the bail petition by contending that joint recovery was effected from the petitioner and the co-accused pertaining to the contraband and the country made pistol. Learned State Counsel has also

drawn attention towards the criminal antecedents of the petitioner as he is involved in numerous cases.

Having regard to the custody period during which petitioner has remained in in-carceration, i.e. last more than 02 years and 05 months and the fact that trial may take time to conclude as only 06 witnesses have been examined out of 14 witnesses cited by the prosecution and also considering the role attributed to the petitioner in the statements of the witnesses as referred above, but without commenting anything on the merits of the case, present petition is allowed. Petitioner is admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court/ Duty Magistrate concerned.

October 10, 2023

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Whether Speaking/reasoned

Whether Reportable

(DEEPAK GUPTA)

JUDGE

Yes/No

Yes/No