

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-30162-2023

Date of Decision:-12.07.2023

Gurvinder Singh @ Ginda.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Vikramjeet Singh, Advocate for the Petitioner with
Mr. Nitish Rana, Advocate.

Ms. Ramta K Chaudhary, Deputy Advocate General, Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.131 dated 01.06.2022 under Sections 18, 61, 85 of NDPS Act 1985 registered at Police Station Division No.7, District Ludhiana (Punjab).

The brief facts of the case are that while police party was on patrolling duty, secret information was received that Ranjit Singh @ Ranjit Kumar (since granted bail vide order dated 10.01.2023) was indulging in selling of Opium and was standing at T-Point near the vegetable market, Chandigarh road Ludhiana waiting for customers. If a raid was conducted he could be apprehended. Based on the said information, Ranjit Singh @ Ranjit Kumar was arrested and was found in possession of 2KG 600 GM of Opium. During investigation, the statement of the petitioner was recorded in which he stated that he had sent Ranjit Singh @ Ranjit Kumar to bring the

Opium.

The Counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. The entire recovery already stands effected from the co-accused Ranjit Singh @ Ranjit Kumar who has been granted bail. There were violations of mandatory provisions of Section 42 and 50 of the NDPS Act. The petitioner was in custody since 03.06.2022. None of the 14 prosecution witnesses had been examined so far. As the recovery allegedly effected was of 2.6 Kgs of Opium, the commercial quantity being more than 2.5Kgs of opium, the petitioner was entitled to the grant of bail since the purported recovery from the co-accused was marginally above the commercial quantity and he had been granted bail. Reliance is placed on the judgments in ***Gurpreet Kumar Vs. State of Punjab 2021(2) DC (Narcotics) 862, Hari Yadav @ Hariya Vs. State of Punjab CRM-M-37645-2021 Decided on 11.02.2022, Jang Kanwar Vs. State of Punjab CRM-M-53415-2021 Decided on 19.01.2022, Sukhchain Singh @ Manga Vs. State of Punjab CRM-M-7857-2022(O&M) Decided on 04.04.2022, Salim Vs. State of Haryana CRM-M-42436-2020 Decided on 24.02.2021, Gagandeep Vs. State of Punjab 2021(2) Law Herald 1803, Gurpreet Singh @ Gopi Vs. State of Punjab 2020(2) RCR (Criminal) 486, Shankar Prashad Chanau Vs. The State of Punjab CRM-M-24090-2020(O&M) Decided on 27.08.2020.***

The Counsel for the State on the other hand submits that commercial quantity of contraband was recovered from the co-accused of the petitioner who had received the same on the asking of the petitioner. The provisions of Section 37 of the NDPS Act did not entitle the petitioner to the grant of bail. He however, admits that the petitioner is a first time offender, the alleged recovery of quantity is marginally above the

commercial quantity and the co-accused has been granted bail vide order dated 10.01.2023 (Annexure P-2).

I have heard learned Counsel for the parties at length.

In the case of *Gurpreet Kumar's case (supra)* where the recovery was of 2.6 Kg of Opium the petitioner therein was granted bail. In *Hari Yadav @ Hariya's case (supra)* where the recovery was of 2.6 Kg of Opium the petitioner was granted the concession of bail and in *Jang Kanwar's case (supra)* where the recovery was of 2Kg 700 Grams of Opium, the petitioner therein was granted the concession of regular bail. Similarly this Court in the cases of *Sukhchain Singh @ Manga's case(supra)*, *Salim Vs. State of Haryana's case (supra)*, *Gagandeep Vs. State of Punjab's case (supra)*, *Gurpreet Singh @ Gopi Vs. State of Punjab's case (supra)*, *Shankar Prashad Chanau Vs. The State of Punjab's case (supra)* and *Shankar Prashad Chanau Vs. The State of Punjab's case (supra)*, granted the concession of bail to the petitioners therein where the recovery was marginally above the commercial quantity.

Since the recovery from the co-accused of the petitioner is of 2.6 Kg of Opium which is marginally above the commercial quantity, none of the 14 PWs have been examined so far the petitioner is a first time offender and the co-accused has been granted bail, the further incarceration of the petitioner is not required.

Thus, without commenting on the merits of the case, the present petition is allowed and the petitioner-**Gurvinder Singh @ Ginda** son of Sh. Surjit Singh is ordered to be released on bail subject to the satisfaction of learned CJM/Duty Magistrate, concerned.

The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform

in writing that he is not involved in any other crime other than the present case.

In addition, the petitioner (or any one on his behalf) shall prepare an FDR in the sum of Rs.2,00,000/- 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.

The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

July 12, 2023
Vinay

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No