

CRM-M No.30196 of 2023

2023:PHHC:156727

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

277

CRM-M No.30196 of 2023

Date of Decision: 07.12.2023

SUNNY

.....Petitioner

Vs

STATE OF PUNJAB

....Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Jashandeep Singh Sandhu, Advocate
for the petitioner.

Mr. Shubham Kaushik, Asstt. A.G., Punjab.

HARKESH MANUJA, J. (Oral)

1. By way of present petition filed under Section 439 Cr.P.C., prayer has been made for grant of regular bail to the petitioner in case bearing FIR No.37 dated 03.04.2023 registered under Sections 21 & 29 of the NDPS Act, 1985 at Police Station City-II Abohar, District Fazilka.

2. Learned counsel for the petitioner submits that petitioner has been implicated for the alleged recovery of 25 grams of heroin.

3. Prayer made on behalf of petitioner has been opposed at the instance of learned State counsel while submitting that petitioner is a habitual offender with two convictions under the provisions of Excise Act, 1914 and three trials of NDPS Act, 1985 are pending against him.

4. I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made by learned counsel for the petitioner.

5. In the present case, investigation already stands concluded with filing of challan and trial is likely to take some time as charges have not been framed so far. Considering the fact that recovery in the present case is of intermediate quantity and petitioner has already suffered incarceration for a period of more than 08 months as of now, I do not find any justification to extend the incarceration of the petitioner.

6. The aforesaid order shall, however, be subject to the stringent conditions imposed by this Court vide judgment dated 17.04.2023 passed in **CRM-M No.15338 of 2023** titled as ‘*Simranjit Singh alias Roda vs. State of Punjab.*’ The relevant paragraph Nos.14 to 18 of the said judgment are reproduced hereunder:-

“14. The petitioner shall not influence, browbeat, pressurize, make any inducement, threat, or promise, directly or indirectly, to the witnesses, the Police officials, or any other person acquainted with the facts and the circumstances of the case, to dissuade them from disclosing such facts to the Police, or the Court, or to tamper with the evidence.

15. Within fifteen days of release from prison, the petitioner shall procure a smartphone and inform its IMEI number and other details to the SHO/I.O. of the Police station mentioned above. The petitioner shall always keep the phone location/GPS on the “ON” mode. Whenever the Investigating officer asks to share the location, the petitioner shall immediately do so. The petitioner shall neither clear the location history, WhatsApp chats, call logs nor format the phone without permission of the concerned SHO/I.O. This condition shall continue till the completion of the trial or closure of case, whichever is earlier.

16. Given the nature of the allegations and the other circumstances peculiar to this case, the petitioner shall surrender all weapons, firearms, ammunition, if any, along with the arms license to the concerned authority within fifteen days from release from prison and inform the Investigator about the compliance. However, subject to the Indian Arms Act, 1959, the petitioner shall be entitled to renew and take it back in case of acquittal in this case, provided otherwise permissible in the concerned rules.

17. During the trial's pendency, if the petitioner repeats or commits any offence where the sentence prescribed is more than three years or violates any condition as stipulated in this order, it shall always be permissible to the respondent to apply for cancellation of this bail. It shall further be open for any investigating agency to bring it to the notice of the Court seized of the subsequent application that the accused was earlier cautioned not to indulge in criminal activities. Otherwise, the bail bonds shall remain in force throughout the trial and after that in Section 437-A of the Cr.P.C., if not canceled due to non-appearance or breach of conditions.

18. In return for the protection from incarceration, the Court believes that the accused shall also reciprocate through desirable behavior. **It is clarified that in case the petitioner does not mend his ways and repeats the offence or indulge in criminal behaviour, then in all future matters, the concerned courts shall keep it as a factor that this court had afforded a final opportunity to the petitioner to reform and live a normal life but did not mend his ways.”**

7. Accordingly, without expressing any opinion on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds and surety bonds to the satisfaction of the concerned Trial Court/Duty Magistrate.

December 07, 2023
Atik

(HARKESH MANUJA)
JUDGE

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