

219 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-32577-2023 (O&M)
Date of Decision: 05.12.2023

Saudagar Singh @ Sagar ...Petitioner

VS.

State of Punjab ...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. H.P.S.Sidhu, Advocate
for the petitioner.

Mr.M.S.Bajwa, Deputy Advocate General, Punjab.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the present petition under Section 439 Cr.P.C., for grant of regular bail to him in case FIR No. 70 dated 06.06.2022 registered under Sections 21, 25, 29 of the NDPS Act and Section 473 of IPC, at Police Station Kulgari, District Ferozepur.

2. As per the case of the prosecution, on receipt of the secret information, picket was laid by the police and Saudagar Singh @ Sagar, accused/petitioner was apprehended while he was travelling on the motorcycle and 255 grams of heroin was recovered from his conscious possession, without any permit or licence.

3. Learned counsel for the petitioner contends that in the present case, the petitioner has been falsely involved by the police. Even the police had allegedly recovered 255 grams of heroin, which included the weight of the bag, which was allegedly used by the petitioner for keeping the heroin. He further contends that the petitioner is in custody for the last 01 year and 06 months.

Learned counsel for the petitioner has placed relied upon judgments passed in

(i) CRM-M-37684-2021, Balwinder Singh vs. State of Punjab, decided on 14.02.2022; (ii) CRM-M-8212-2022, Tajinder Singh vs. State of Punjab, decided on 03.03.2022 and (iii) CRM-M-35186-2016, Manjit Kaur @ Jeeto vs. State of Punjab, decided on 01.12.2016 to contend that the quantity of contraband recovered from the present petitioner is marginally above 'the commercial quantity' and in view of the fact that the petitioner has undergone such a long period for incarceration, he is entitled for bail.

4. On the other hand, learned counsel for the State vehemently opposed the submissions made by learned counsel for the petitioner on the ground that the rigors of Section 37 of the Act would apply to the facts of the present case and the petition is liable to be dismissed.

5. I have heard learned counsel for the parties and perused the record.

6. Keeping in view the facts and circumstances of the case, custody period of the petitioner and also the fact that the quantity of alleged contraband is marginally above the 'commercial quantity', but without commenting on merits of the case, I am of the considered view that the petitioner deserves the concession of regular bail.

7. Therefore, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of bail/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate concerned.

8. Pending application, if any, is also disposed of.

(N.S.SHEKHAWAT)
JUDGE

05.12.2023
hemlata

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