

209 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-39406-2022
Date of Decision: 29.03.2023

V/S

STATE OF PUNJAB ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. S.S.Nagra, Advocate for the petitioner.

Mr. Hittan Nehra, Addl. A.G. Punjab.

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VIVEK PURI, J. (ORAL)

The petitioner is seeking regular bail in case bearing FIR No. 83 dated 17.05.2022 under Section 21 of Narcotic Drugs and Psychotropic Substances Act and Section 25 of Arms Act, registered at Police Station Division No. 5, Jalandhar.

Custody certificate has been taken on record.

Briefly, as per the allegations of the prosecution, on 17.05.2022 in pursuance of the secret information, the arrest of Deepak Kumar @ Deepu, co-accused was effected. 1 Kg 50 gms of heroin along with a sum of Rs. 1,72,250/-, a pistol and .32 bore magazine were recovered from him. During the course of his interrogation, the petitioner has been nominated as an accused as it was pointed out that the contraband was being further supplied to the petitioner and others.

Learned counsel for the petitioner contends that Gurdev Singh

@ Gurdev Bhagat @ Bittu Baba, Harpal Singh @ Bhalu and Narinder Kumar @ Tinka, who have also been nominated on the basis of disclosure statement of Deepak Kumar @ Deepu, co-accused have been granted regular bail in terms of the order dated 06.12.2022, 19.12.2022 and 19.12.2022 passed in CRM-M-44254-2022, CRM-M-47925-2022 and CRM-M-48047-2022, respectively by the Coordinate Bench of this Court. The petitioner is in custody for a period of 9 months and 21 days. Though the petitioner is involved in 3 other cases under NDPS Act but is on bail in all those cases and in the instant case, the only incriminating evidence against the petitioner is the confessional statement of the co-accused. Although, in the custody certificate with regard to the case bearing FIR No. 73 dated 25.05.2022 under Section 21 of Narcotic Drugs and Psychotropic Substances Act, registered at Police Station Division No. 1, Jalandhar, the petitioner is stated to be not on bail but he has been granted bail in terms of the order dated 05.07.2022 passed by the learned Judge, Special Court as the said case pertains to the recovery of 6 gms of heroin.

Learned State counsel, on instructions of ASI Vipin Kumar, has opposed the bail application on the score that the petitioner has also been arraigned as an accused in 3 other cases under Narcotic Drugs and Psychotropic Substances Act.

Be that as it may, the petitioner is on bail in 3 other cases registered against him under Narcotic Drugs and Psychotropic Substances Act. In the instant case, the only incriminating evidence against the petitioner is the confessional statement of the co-accused and the reliability

thereof will be a debatable and moot point during the course of trial. The petitioner is in custody for a period of 9 months and 21 days. 3 other co-accused who have also been nominated on the basis of the disclosure statement of Deepak Kumar @ Deepu, co-accused have been granted concession of regular bail. It has also been pointed out that out of 17 till date no witness has been examined. The conclusion of trial is likely to take some more time and no fruitful purpose would be served by detaining the petitioner in further custody.

As such, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner. Therefore, without making any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing fresh bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

The petition is allowed.

29.03.2023

Janki

(VIVEK PURI)
JUDGE

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