

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

**CRM-M-40310-2022 (O&M)
Date of decision: 03.05.2023**

Harpreet Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. R. S. Waraich (Rana), Advocate
for the petitioner.

Mr. Teevar Sharma, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

This is the third petition that has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 123 dated 22.06.2021, registered under Section 21 of the Narcotic Drugs & Psychotropic Substances Act, 1985 at Police Station Sadar Khanna, District Ludhiana.

The earlier petitions, bearing CRM-M-42957-2021 and CRM-M-6853-2022, were dismissed as withdrawn on 25.10.2021 and 10.05.2022, respectively.

Learned counsel for the petitioner submits that the new ground for filing the present petition is that the petitioner is in long judicial custody and till date, no prosecution witness has been examined.

Learned counsel for the petitioner further submits that though on the previous date, he has withdrawn the application on the ground that the petitioner is involved in three more FIRs, however, as on today,

however, in one FIR of 2015, the petitioner stands acquitted by the Special Court, Ludhiana, vide judgment dated 18.10.2016 and in other two FIRs, relating to the years 2016 and 2018, the petitioner has already been granted the concession of regular bail.

Brief facts of the case are that the FIR was registered at the instance of ASI Avtar Singh with allegations that while he along with other police officials were going in a private car towards Ismailpur, they saw a person coming on a motorcycle. On seeing the motorcycle, the police party stopped their car and on suspicion, they tried to stop the motorcycle, however, the rider of the motorcycle turned his motorcycle and fell down. In the meantime, the said persons threw a black color polythene bag towards the fields. He was apprehended with the help of the police officials and on inquiry, he disclosed his name as 'Harpreet Singh', i.e. the present petitioner. Thereafter, from the bag, which the petitioner had thrown, 260 grams of heroin was recovered.

Learned counsel for the petitioner further submits that it will be a matter of trial whether the proper procedure was followed or not as it is the case of the prosecution itself that the petitioner had kept the said bag in his pocket and had thrown the same on the ground, therefore, the provisions of Section 50 of the NDPS Act were not followed.

Learned counsel for the petitioner further submits that the recovery effected is marginally above the commercial quantity, therefore, he may be enlarged on regular bail.

Learned counsel for the petitioner has relied upon an order dated 15.12.2022, passed by this Court in CRM-M-45698-2022, vide which,

it was observed that since the recovery was effected from the suspect, who had thrown the bag containing the alleged intoxicant tablets, it will be a matter of trial whether mandatory provisions of Section 50 of the NDPS Act were followed or not.

Learned State counsel has filed the custody certificate, which reflects that the petitioner is in long judicial custody of about 01 year and 10 months. Learned State counsel, on instructions from HC Ranjit Singh, submits that out of total 12 prosecution witnesses, none has been examined so far.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the fact that the petitioner is in long judicial custody and the conclusion of trial is likely to take a long time as no prosecution witness has been examined so far and also in view of the judgment of Hon'ble Supreme Court ***Satender Kumar Antil vs. Central Bureau of Investigation and another, 2022 Live Law (SC) 577***, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaq Magistrate, concerned.

03.05.2023
Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No