

CRM-M-39135-2023
(231)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-39135-2023 (O & M)
Date of decision: 25.09.2023

Harshdeep Singh

.... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Rhythem Bajaj, Advocate, for the petitioner.

Mr. Harkanwar Jeet Singh, AAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in this first petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in case FIR No.67 dated 27.06.2023 under Sections 21, 29 of the NDPS Act registered at Police Station City-2, Abohar, District Fazilka.

2. The brief facts of the case are that while the police party was on patrolling duty, a person wearing a turban was seen walking on the road who on seeing the police party, hurriedly walked towards the trees. While walking, he dropped one polythene packet on the ground. He was apprehended and disclosed his name as Harshdeep Singh (petitioner). From the packet, the recovery of 12 grams of heroin came to be effected.

3. The learned counsel for the petitioner contends that the petitioner had been falsely implicated in the present case. There was a total non-compliance of the mandatory provisions of Sections 42 and 50 of the NDPS Act. No independent witness was joined during the course of search

and seizure. As the petitioner was in custody since 27.06.2023 and the

CRM-M-39135-2023
(231)

::2::

recovery was of non-commercial quantity of contraband, he was entitled to the concession of bail.

4. The learned counsel for the State, on the other hand, contends that the petitioner is involved in FIR No.2 dated 03.01.2022 under Section 61 of the Excise Act, Police Station City-2, Abohar and FIR No.95 dated 19.07.2022 under Sections 379, 411 IPC, Police Station City-1 Abohar. Therefore, his criminal antecedents did not entitle him to the concession of bail. He, however, concedes that the recovery from the petitioner is of non-commercial quantity of contraband, there is no case pending against the petitioner under the NDPS Act and that he is in custody since 27.06.2023.

5. I have heard the learned counsel for the parties.

6. Admittedly, the petitioner is in custody since 27.06.2023. The investigation stands completed but none of the 08 prosecution witnesses has been examined so far. The recovery effected from him is of non-commercial quantity of contraband. There is no other case registered against him under the NDPS Act. Therefore, his further incarceration is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Harshdeep Singh is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

September 25, 2023
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No