

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

CRM-M-41948 of 2022(O&M)

Date of Decision: 20.02.2023

Amandeep @ Amna

...Petitioner

Versus

State of Punjab

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. P.S. Hundal, Sr. Advocate with
Mr. Vikramjit Singh, Advocate
For the petitioner.**

Ms. Kanika Sachdeva, AAG Punjab.

KARAMJIT SINGH, J.

The present petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case having FIR No. 68 dated 16.06.2022, registered under Sections 21, 22, 29, 61 and 85 of the Narcotic Drugs and Psychotropic Substances Act (for brevity, the Act) and Sections 25, 54 and 59 of Arms Act at Police Station Navi Baradari, District Police Commissionerate Jalandhar.

As per the allegations appearing on record, police apprehended car No. PB08EW-8657 which was driven by co-accused Sunny and 04 other co-accused namely Smile @ Sheru, Divesh @ Vansh, Happy and Love Kumar were also sitting in the said car. On checking of the kit bag which was tied by co-accused Sunny around his waist, 280 grams of intoxicant powder, 51 grams of heroin and drug money worth Rs.6 lakhs were recovered and on

the personal search of the said co-accused one country made pistol along with magazine having 07 live cartridges, one another magazine having 07 live cartridges were recovered. In the similar manner, 52 grams of heroin and one electric weighing machine, 270 grams of intoxicant powder, one country made pistol having magazine with 07 live cartridges and one another magazine having 07 live cartridges were recovered from Smile @ Sheru. One country made pistol with magazine having 07 live cartridges, one another magazine having 07 live cartridges were recovered from co-accused Divesh @ Vansh. One country made pistol with magazine having 05 live cartridges was recovered from co-accused Happy. No incriminating article was recovered from co-accused Love Kumar @ Noni.

There are allegations that co-accused Sunny while in police custody disclosed that he procured the firearm and ammunition from petitioner Amandeep @ Amana and co-accused Karanpreet Singh and thereafter the petitioner was nominated as accused and was arrested on 24.06.2022 by getting his production warrant as at that time he was lodged in a jail. During investigation no contraband or any other incriminating article was recovered from his possession.

The counsel for the petitioner submits that the petitioner has been falsely implicated in the present case by the police on the basis of the alleged disclosure made by co-accused and that the said disclosure is having no relevance being hit by the provisions of Section 25 of Evidence Act. The counsel for the petitioner further submits that the petitioner is not involved in any other case under the Act and in the present case trial is yet to commence. So, prayer is made that the petitioner be released on regular bail.

The present petition is contested by the State counsel who submits that contraband, drug money, firearm and ammunition were recovered from the possession of co-accused Sunny, who disclosed that the aforesaid firearms and ammunition were supplied to him by the present petitioner. The State counsel further apprised the Court that the petitioner who is in custody for the last more than 07 months is involved in some other criminal cases but is having no criminal history under the Act. The State counsel further submits that after investigation the police has presented the challan but charges are yet to be framed by the learned trial Court against the accused persons and thereafter it will take time for the trial to terminate.

I have considered the submissions made by counsel for the parties.

The petitioner is nominated as accused on the basis of disclosure statement made by co-accused Sunny. The veracity and relevance of the said disclosure statement will be tested by the learned trial Court during the trial. Admittedly, no recovery has been effected from the present petitioner in the instant case. Further the petitioner is not involved in any other case under the Act. The petitioner was not named in the FIR and was lateron nominated as accused and is stated to be involved in some other criminal cases. The pendency of other criminal cases cannot be considered as impediment for grant of bail to the petitioner in present case. In this regard reliance is placed on **Prabhakar Tiwari Vs. State of U.P. & Anr.** 2020(11) SCC 648.

The petitioner was taken into custody in the present case by getting

his production warrants from the Court concerned as at the relevant time he

was lodged in a jail. After completion of investigation the police has presented the challan but the trial is yet to commence. The petitioner is in custody for the last about 08 months and it will take considerable time for the trial to conclude. So, no purpose is going to be served by keeping the petitioner in custody for any longer period.

Thus, without commenting 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 bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

20.02.2023

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**(KARAMJIT SINGH)
JUDGE****Whether speaking/reasoned : Yes/No****Whether reportable : Yes/No**