

(209) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-46244-2022

Date of Decision: 19.01.2023

PARDEEP SINGH

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. P.S. Sekhon, Advocate
for the petitioner.

Mr. Aman Dhir, DAG, Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.0112 dated 07.07.2022 registered under Section 21 of NDPS, 1985 (Section 29 of NDPS Act, 1985 added later on) with Police Station City-II Malerkotla, District Malerkotla.

2. The brief facts of the case are that while the police party was on patrolling duty, they saw one unidentified Hindu person coming from the front on foot. On seeing the police party, he got perplexed and threw away one transparent plastic bag from his pocket on the railway line and tried to run away. He was apprehended and from the transparent plastic bag, 10 gms of heroin came to be recovered. He disclosed his name as Mohd. Akhtar.

During interrogation, Mohd. Akhtar disclosed that he had purchased the same from Pardeep Singh (petitioner). Thereafter, Pardeep Singh was arrested in the present case and from him, 260 gms of heroin was recovered along with Rs.50,000/- as drug money.

3. The learned counsel for the petitioner contends that the petitioner has not been named in the FIR but in the disclosure statement of his co-accused. The recovery from the petitioner is of 260 gms of heroin which was marginally above the commercial quantity of 250 gms. This Court in the cases of Shankar Prashad Chanau Versus The State of Punjab, CRM-M-24090-2020, decided on 27.08.2020, Gurpreet Kumar Versus State of Punjab, CRM-M-17021-2021, decided on 31.08.2021, Hari Yadav @ Hariya Versus State of Punjab, CRM-M-37645-2021, decided on 11.02.2022, Jang Kanwar Versus State of Punjab, CRM-M-53415-2021, decided on 19.01.2022, Sukhchain Singh @ Manga Versus State of Punjab, CRM-M-7857-2022, decided on 04.04.2022, Salim Versus State of Haryana, CRM-M-42436-2020, decided on 24.02.2021, Gagandeep Versus State of Punjab, CRM-M-3055-2021, decided on 27.01.2021 and Gurpreet Singh @ Gopi Versus State of Punjab, CRM-M-41039-2019, decided on 26.02.2020 held that where the recovery is marginally above the commercial quantity, the case of the accused can be considered for the grant of bail. There was total non-compliance of the mandatory provisions of the NDPS Act including Sections 50 and 52-A. The petitioner was a first-time offender and has been in custody since 08.07.2022. Since none of the 17 prosecution witnesses had been examined so far, the Trial of the present case was not likely to be concluded anytime soon. As such, the petitioner was entitled to the grant of bail, moreso, when he was a first-time offender with no other case registered against him.

4. An affidavit dated 19.01.2023 has been filed on behalf of the respondent-State by the learned State counsel by way of an affidavit of Kuldeep Singh, PPS, Deputy Superintendent of Police, Sub Division

Malerkotla, District Malerkotla and the same is taken on record. He contends that the petitioner is a part of gang dealing with narcotic substances. The recovery from him was of commercial quantity of contraband. As such, the provisions of Section 37 of NDPS Act did not entitle him to the grant of bail. He, however, does not deny the fact that the petitioner was in custody since 08.07.2022, none of the 17 prosecution witnesses had been examined and he was a first-time offender.

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

6. This Court in the case of **Sukhchain Singh @ Manga Versus State of Punjab, CRM-M-7857-2022, decided on 04.04.2022**, granted bail to the petitioner, therein, where the recovery was of 265 gms of heroin. In the present case, the recovery is of 260 gms of heroin along with Rs.50,000/-. Further, the petitioner has been in custody since 08.07.2022 and none of the 17 prosecution witnesses have been examined so far. Therefore, as the Trial of the case is not likely to be concluded in the near future, the further incarceration of the petitioner is not required, moreso, when he is a first-time offender.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Pardeep Singh son of Sarabjit 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 petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the present case.

9. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

19.01.2023

JITESH

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