

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(216)

CRM-M-47135-2022
Date of decision:- 18.08.2023

Sukhwinder Singh @ Sukha

... Petitioner

Versus

The State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Lakhwinder Singh Lakhanpal, Advocate
for the petitioner.

Mr. Arun Luthra, DAG, Punjab
for State-respondent.

SUVIR SEHGAL, J. (ORAL)

1. Instant petition has been filed under Section 439 Cr.P.C. seeking grant of post-arrest bail in:-

FIR No.	Dated	Police Station	Sections
48	26.03.2017	Adampur, District Jalandhar	15, 18, 21, 22 and 29 of the NDPS Act.

2. Version of the prosecution is that FIR, Annexure P-1, has been registered on the basis of secret information received that Sukhwinder Singh @ Sukha, present petitioner, Avtar Singh @ Tari, Sukhdev Singh @ Rana, Kulvir Singh @ Niku, Amandeep Singh @ Amna, Kulwinder Singh @ Manga, Jaswinder Singh @ Jassa, Upinder Singh, Bunty, Kamaljit Singh, Gurmit Singh @ Pappi, Avtar Singh @ Ladi, Harpreet Singh @ Happy @ Ludhianvi and Tejo are in constant touch with each other and are

indulging in the sale of intoxicant substance. On 28.03.2017, three accused, namely, Kamaljit Singh, Harpreet Singh @ Happy and Gurmit Singh @ Pappi were arrested. Recovery of 20 grams heroin was effected from Kamaljit Singh and 5 grams heroin was recovered from Harpreet Singh @ Happy. Petitioner was arrested on 30.04.2017 and drug money of Rs.300/- was recovered from him.

3. Counsel for the petitioner contends that the petitioner has been falsely implicated and no recovery of any contraband has been effected from him. He submits that investigation qua the petitioner is complete, challan has been presented and charge has been framed on 21.02.2018. Counsel asserts that as only one out of sixteen prosecution witnesses have been examined, petitioner deserves to be released on bail.

4. *Per contra*, State counsel, upon instructions from SI, Gurmeet Ram and by making a reference to the affidavit of Deputy Superintendent of Police (Headquarter)-cum-Deputy Superintendent of Police, Sub Division Adampur, District Jalandhar (Rural) submits that the petitioner has a criminal past and after being released on interim bail by this Court, he absented himself from the proceedings and has been declared a proclaimed offender. Counsel submits that the petitioner was subsequently arrested and is in custody in other criminal cases. State counsel is not in a position to dispute the factual position.

5. I have heard counsel for the parties and considered their respective submissions.

6. Undisputedly, no contraband has been recovered from the petitioner and the only recovery from him is of petty cash. Although, the petitioner is involved in a number of criminal cases, most of them under the NDPS Act, but that fact alone would not dis-entitle him to be released on bail. Furthermore, noticing the nascent stage of the trial, this Court is inclined to accede to the prayer made in the petition.

7. Without advertng to the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be released on bail on furnishing adequate bail/surety bonds to the satisfaction of the Area Magistrate/Duty Magistrate/Trial Court concerned.

8. It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

9. While being released on bail, petitioner shall furnish an undertaking by way of an affidavit that henceforth he will not get involved in any unlawful activity. In case, he violates the condition, liberty is granted to the State to seek cancellation of bail.

(SUVIR SEHGAL)
JUDGE

18.08.2023
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No