

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

CRM-M-48789-2022(O&M)

Date of decision:-30.1.2023

Jagdeep Singh @ Jagga Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

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

Ms.Guramrit Kaur, DAG, Punjab.

H.S. MADAAN, J.

1. This third petition for grant of regular bail has been filed by petitioner Jagdeep Singh @ Jagga Singh, an accused in FIR No.101 dated 2.7.2019, under Sections 21, 25 and 29 of NDPS Act, registered with Police Station City, Patti, District Tarn Taran. The first such petition having been filed by the petitioner bearing CRM-M-46842-2019 had been withdrawn on 4.2.2020, copy of order being Annexure P4, whereas second petition bearing CRM-M-33142-2020 filed on his behalf was dismissed on merits vide a detailed order dated 23.9.2021, copy of order being Annexure P5.

2. Briefly put, facts of the case as per the prosecution version are that 02.07.2019, a police party headed by SI Sukhraj Singh, Incharge Narcotic Control Cell, Tarn Taran, had spotted a Hero Honda motorcycle bearing No.PB09-J-3332, having two riders coming from Village Bahmaniwala side; on seeing the police party, the motorcycle driver

applied the brakes abruptly and tried to turn it back but the motorcycle slipped and both the riders fell down; thereafter, they tried to escape, however, they were apprehended and on being asked, the person driving the motorcycle disclosed his name as Jagdeep Singh @ Jagga Singh son of Sukhwinder Singh (present petitioner), whereas, the person who was pillion riding the motorcycle gave his name as Rohan Malhotra S/o Raj Kumar, R/o H.No.4/421, Gali No.7, New Abadi, Karampura, Fatergarh Churian, Amritsar; SI suspected both such persons to be carrying some intoxicant substance and wanted to conduct their personal search to which the accused stated that they desired to get their search conducted by a Gazetted Officer; Sh. Hardeep Singh, DSP, Tarn Taran was summoned to the spot; accused reposed faith in him; on instructions SI Sukhraj Singh conducted personal search of petitioner and he was found to be carrying heroin in a plastic bag placed in right pocket of the lower, which on being weighed came out to 430 gms; Rohan Malhotra was found to be carrying 120 gms of heroin in the left pocket of his pent; the samples were drawn as per rules and the remaining recovered heroin were converted into sealed parcels, which were taken into possession; the motorcycle of accused was also seized; ruqa was sent to the police station, on the basis of which formal FIR was registered; the investigation in the case started; accused were formally arrested in this case; on completion of investigation and other formalities, challan against the accused was prepared and filed in the Court. The accused is facing trial in that case. The petitioner had filed petition for grant of regular bail in the Court of Judge, Special Court, Tarn Taran but was unsuccessful there, as such, he

had approached this Court earlier by filing two petitions mentioned above. Now the petitioner has approached this Court again for the third time for grant of similar relief, which request is being opposed by the State counsel.

3. I have heard learned counsel for the parties besides going through the record.

4. The petitioner was found in possession of 430 grams of heroin, which comes within definition of commercial quantity attracting bar of Section 37 of NDPS Act, which reads as under:

Offences to be cognizable and non-bailable.—

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) every offence punishable under this Act shall be cognizable;

(b) no person accused of an offence punishable for 3 [offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity] shall be released on bail or on his own bond unless—

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in clause (b) of subsection (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force on granting of bail.

5. The second petition filed for grant of bail was dismissed considering the huge quantity of the contraband recovered from the

petitioner, bar of Section 37 of the Act and apprehension expressed by the State counsel that the petitioner may turn to path of crime again, if granted the concession of bail as well as likelihood of his trying to tamper with the prosecution evidence and even absconding, in the process delaying the trial. There is no substantial change in the circumstances since dismissal of the earlier petition on merits except that trial has not made substantial progress. However, considering all the circumstances, I find that concession of regular bail cannot be granted to the petitioner, though a direction deserves to be issued to the trial Court to conclude the trial expeditiously by giving short adjournment.

6. Therefore, the petition stands dismissed.

7. However, the trial Court is directed to make earnest efforts to conclude the trial in this case by giving short adjournments. The State shall cause appearance of PWs in the Court on the date fixed and accused shall not ask for any adjournment for cross-examination of PWs without any justifiable reason. Every effort be made to conclude the trial within a period of 8 months from the date of receipt of copy of this order in the trial Court. In case, it is not so done, then the trial Court would render necessary explanation to this Court for not doing so. The Court concerned be informed accordingly.

30.1.2023
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No