

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

CRM-M-49104-2023

Date of Decision: 30.10.2023

RAJ SINGH

... PETITIONER

V/S

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. B.S.Sra, Advocate for the petitioner.

Ms. Ruchika Sabherwal, DAG Punjab.

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VIVEK PURI, J. (ORAL)

1. Petitioner has prayed for grant of regular bail in case FIR No. 282 dated 06.11.2022 under Sections 21/29 of Narcotic Drugs and Psychotropic Substances Act registered at Police Station Guruharsahai, District Ferozepur.

2. Custody certificate has been taken on record.

3. Learned counsel for the petitioner contends that as per the allegations in pursuance of the secret information, on 06.11.2022 the petitioner along with the co-accused Paramjit Kaur was apprehended while they were travelling in a car. 20 gms of heroin was recovered from the petitioner and 7 gms of heroin was recovered from the co-accused. A sum of Rs. 1,25,000/- was also recovered from the car in which they were travelling. Subsequently, during the course of investigation, in pursuance of the disclosure statement of the petitioner 150 gms of heroin along with 03 mobile phones were recovered. The petitioner is in custody for a period of

11 months and 18 days. Though the petitioner is involved in another case

under NDPS Act but in that case he was arraigned as an accused on the basis of the disclosure statement of the co-accused from whom the recovery was effected and is on bail in that case. There is lack of material to indicate that the petitioner had any communication with the Pakistani smuggler and was indulging in transborder smuggling of narcotics. The quantity of contraband recovered from the possession of the petitioner falls in the category of less than commercial quantity. The co-accused Paramjit Kaur is on bail. The investigation of the case is complete and the challan has been presented in the Court.

4. Learned State counsel has opposed the bail application on the score that the petitioner had been making whatsapp calls on 03 mobile phones in Pakistan. Furthermore, the charge in the instant case is yet to be framed.

5. It may be mentioned here that the quantity of contraband alleged to have been recovered from the possession of the petitioner falls in the category of less than commercial quantity and as such, the stringent provision of Section 37 of NDPS Act are not attracted in the instant case. The controversy as to whether the petitioner was making whatsapp call to Pakistani smuggler will be a debatable and moot point during the course of trial. Though the petitioner is involved in another case under NDPS Act but he is stated to be arraigned as an accused on the basis of the disclosure statement of the co-accused and is on bail in that case. The custodial interrogation of the petitioner is over, the investigation of the case is complete, the challan has been presented and charge is yet to be framed. The conclusion of trial is likely to take substantial time and no fruitful purpose will be served by detaining the petitioner in further custody.

6. As such, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner. Therefore, without making any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing fresh bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

7. The petition is allowed.

30.10.2023

Janki

**(VIVEK PURI)
JUDGE**

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