

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-51566-2022
Date of Decision:-28.04.2023

DILBAG SINGH

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

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CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

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Present:- Mr. Jashandeep Singh Sandhu, Advocate
for the petitioner.

Mr. Chaman Lal Pawar, Addl. A.G. Punjab.

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KARAMJIT SINGH, J. (Oral)

1. Prayer in the present petition under Section 439 of Code of Criminal Procedure is for grant of regular bail to the petitioner in case FIR No.170 dated 28.11.2021 registered for the offences punishable under Sections 21, 25, 29 of NDPS Act at Police Station Dhanaula, District Barnala.
2. The allegations in brief are that the police received secret information against the petitioner, Rani Kaur, Rajni Bala and Jagsir Singh and then the police apprehended all four of them while they were going in a car driven by Jagsir Singh and 400 grams of Heroin was recovered from

the possession of non-applicant/Rani Kaur. Thereafter, another 10 grams of Heroin was recovered from the possession of non-applicant/Kali Kaur.

3. Counsel for the petitioner submits that the petitioner has been falsely implicated in the present case; that as per prosecution version, Jagsir Singh was driving the car in which Rani Kaur, Rajni Bala and petitioner-Dilbagh Singh were also travelling and the police apprehended the said car and on checking of the purse of Rani Kaur, 400 grams of Heroin was recovered. He further submits that the petitioner was having no knowledge about the alleged contraband which was kept concealed by Rani Kaur in her purse and regarding which only she was having knowledge. He further submits that the petitioner is in custody since 28.11.2021 and after completion of investigation, the police has presented the challan but it will take time for the trial to conclude. The petitioner is having no criminal history under the NDPS Act.
4. Counsel for the petitioner further submits that driver of the said car namely Jagsir Singh was granted concession of regular bail vide order dated 14.3.2023 and the copy of the said order is taken on record. The counsel for the petitioner further submits that another occupant of the car namely Rajni Bala is also granted bail by this Court vide order dated 14.9.2022 (Annexure P-2). So, prayer is made for grant of regular bail to the petitioner who is having no criminal history.
5. Status report by way of affidavit of Satvir Singh, DSP, Sub Division, Barnala filed on behalf of the State is ordered to be taken on record.

6. Present petition is resisted by the State counsel who submits that 400 grams of Heroin was recovered from the car which was driven by Jagsir Singh and the petitioner was also travelling in the said car along with Rani Kaur and Rajni Bala. He, while referring to the aforesaid status report, contends that 400 grams of Heroin was recovered from the plastic polythene which was recovered from the hands of Rani Kaur, who was also travelling in the aforesaid car. State counsel further submits that the present petitioner was well aware about the contents of the said plastic polythene as the same was visible to the petitioner, who is son of said Rani Kaur. He further submits that the aforesaid recovery of 400 grams of Heroin attracts the provisions of Section 37 of NDPS Act, being covered under commercial quantity. He further contends that the police has presented the challan but the trial is at its initial stage and as such, no ground is made out to grant concession of bail to the petitioner at this stage. However, he has not disputed the fact that co-accused Jagsir Singh and Rajni Bala have been granted regular bail by this Court and further, the petitioner is having no criminal antecedents.
7. I have considered the submissions made by the counsel for the parties.
8. As per prosecution version, 400 grams of Heroin was recovered from the possession of co-accused Rani Kaur who was travelling in a car driven by the Jagsir Singh and in which, petitioner-Dilbagh Singh and Rajni Bala were also travelling with them. As per recovery memo dated 28.11.2021, the aforesaid 400 grams of Heroin was recovered from the purse which was possessed by co-accused Rani Kaur. In

view of above, it appears that now the prosecution is trying to improve its case by saying that the aforesaid recovery was effected from the plastic polythene which co-accused Rani Kaur was holding in her hands as has been stated in the status report which has been filed today in Court by way of affidavit of Satvir Singh, DSP, Barnala. The contents of the same are contrary to the recovery memo dated 28.11.2021.

9. It is a debatable point as to whether the petitioner was having any persons knowledge with regard to the contents of the purse which co-accused Rani Kaur, mother of the petitioner was carrying in her hands and it is also disputable as to whether the said purse was transparent.
10. Admittedly, the petitioner is in custody since 28.11.2021 and is having no criminal history. Further, the police has presented the challan but the trial is at its initial stage and it will take considerable time for the trial to terminate. Besides, co-accused Jagsir Singh and Rajni Bala, who at the relevant time, were also travelling in the car which was driven by the Jagsir Singh, are already given benefit of regular bail by this Court.
11. State counsel is unable to show that if released on bail, the petitioner is likely to commit such offence in future.
12. In view of the matter, this Court is of the considered opinion that parameters of bail available under Section 37 of NDPS Act appear to have been satisfied in the present petition.

13. Consequently, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned. However, in future, if the petitioner commits offence of similar nature, then the prosecution will be at liberty to seek cancellation of bail granted to the petitioner by this Court in the present case.

28.04.2023
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No