

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

CRM-M-51496-2022 (O&M)
Date of Decision:-**24.04.2023**

GURCHARAN SINGH ALIAS CHANNA

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

-.
CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH
-.

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

Mr. Sanish Girdhar, AAG, Punjab.
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KARAMJIT SINGH, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in a case having FIR No.363 dated 17.10.2020 registered under Sections 21, 21-C of NDPS Act at Police Station Sadar Fazilka, District Fazilka.
2. The allegations in nut-shell are that the officials of BSF recovered 2.125 kgs heroin from near the border fencing on intervening night of 16/17.10.2020 and the matter was reported to the local police and resultantly FIR in this case was registered on 17.10.2020. During investigation co-accused Sandeep Singh @ Sippi was arrested by the police and he made disclosure statement against the petitioner and other accused persons regarding their involvement in the aforesaid recovery. Thereafter petitioner was nominated as accused and was arrested in this case on 29.11.2021.

3. The counsel for the petitioner *inter alia* contends that the FIR in this case was registered against unknown persons. The counsel for the petitioner further submits that the petitioner was nominated as accused on the basis of alleged disclosure made by co-accused and the said disclosure statement will be tested during trial. The counsel for the petitioner further submits that the petitioner was arrested in this case on 29.11.2021 and at that time the petitioner was lodged in a jail in another case relating to recovery of 30 grams of heroin and drug money. The counsel for the petitioner further submits that in the present case no recovery has been effected from the petitioner who is in custody since 29.11.2021 and the trial is not proceeding ahead. So prayer is made that the petitioner be released on bail.
4. The instant petition is resisted by the State counsel, who submits that in the present case 2.125 kgs. of heroin was recovered from near Indo-Pakistan border and during investigation co-accused Sandeep was arrested and he made disclosure statement against the present petitioner and other accused persons regarding their involvement in the aforesaid recovery of heroin and thereafter the petitioner was nominated as accused and arrested on 29.11.2021, after procuring his production warrants as at that time, he was in custody in some other criminal case. The State counsel has not disputed the fact that during the investigation of the present case no contraband was recovered from possession of the petitioner and further the petitioner is already enlarged on bail in another case registered against him under the

NDPS Act. The State counsel has also admitted that trial is at its initial stage.

5. I have considered the submissions made by counsel for the parties.
6. The FIR in this case was registered against unknown persons. Admittedly in the present case the officials of border security forces recovered 2.125 kgs of heroin from near the Indo-Pak. Border fence and the said land is not belonging to the petitioner and later on one Sandeep was arrested and he made disclosure statement against the petitioner and resultantly petitioner was nominated as accused in the present case and he was arrested on 29.11.2021 and during investigation no contraband was recovered from the possession of the petitioner. The aforesaid disclosure statement is subject matter of the trial and admittedly the trial is not progressing. The petitioner is also facing one another criminal case under the NDPS Act in which he is stated to be on bail. In the given circumstances, it will take considerable time for the trial to conclude, so no useful purpose is going to be served by keeping the accused behind the bars for any longer period.
7. Thus without commenting on the merits of the case, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail and surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate concerned.

24.04.2023
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

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