

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

CRM-M No.51044 of 2023

Date of Decision:05.12.2023

Rajwinder Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM : HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Talwinder Singh, Advocate
for the petitioner.

Ms. Navreet Kaur Barnala, AAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.196 dated 05.09.2022 registered under Section 21 of the NDPS Act, 1985 (Section 29 of the NDPS Act added later on) at Police Station Baghapurana, District Moga.

2. Learned counsel for the petitioner submits that the petitioner has not been named in the FIR and he has been implicated falsely on the basis of disclosure statement suffered by the co-accused, which is not admissible in evidence. In support of his contention, he relies upon the judgment rendered by the Hon'ble Supreme Court in *Tofan Singh Vs. State of Tamil Nadu (2021) 2 SCC (Crl.) 246*. No recovery was effected from him. It is further contended that petitioner was behind the bars when the present FIR was registered. Final report under Section 173 Cr.P.C has already been filed before the trial Court. Nothing is to be recovered from the petitioner and therefore,

the petitioner is entitled for concession of regular bail. It is also contended that the main accused has already been granted concession of bail by this Court vide order dated 05.09.2023 passed in CRM-M No.43084 of 2023 titled as *Lovejeet Singh @ Love Vs. State of Punjab*.

3. Per contra, leaned State counsel submits that two more cases under NDPS Act are pending against the petitioner in which he is facing trial and till date, he is not enlarged on bail in either of the case. It is further contended that recovery of 260 grams of heroin from the co-accused falls under commercial quantity and therefore, there is no justification to overcome the rigors of Section 37 of the NDPS Act.

4. Having heard learned counsel for the parties and after perusing the record of the case, this Court finds no merit in arguments made by the counsel for the petitioner. Admittedly, seven cases are registered against the petitioner including two cases of similar offence i.e. FIR No.160 dated 19.08.2023 registered under Sections 21, 29 of the NDPS Act and Sections 25/27 of the Arms Act at Police Station City, Sangrur and FIR No.257 dated 27.10.2022 registered under Sections 21-B of the NDPS Act at Police Station Muktsar City in which he is the behind bars and facing trial. The petition is silent about the pendency of aforesaid criminal cases against the petitioner. The recovery effected from the main accused is of 260 grams of heroin, which falls under the commercial quantity. Bail granted to the main accused by this Court is on the basis of custody undergone by him. The petitioner is a habitual offender and he failed to give any explanation to overcome the rigours of Section 37 of the NDPS Act.

5. Keeping in view the aforesaid facts and circumstances, no ground for grant of concession of bail is made out. Resultantly, the instant petition is dismissed.

(HARPREET SINGH BRAR)
JUDGE

December 05, 2023

Pankaj*

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No