

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr.No.206

Case No. : CRM-M-52500-2022

Date of Decision : February 17, 2023

Ashu Jain

.... Petitioner

vs.

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. Ashish Aggarwal, Advocate
for the petitioner.

Mr. Jaiteshwar Singh Bhandari, AAG, Punjab.

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GURBIR SINGH, J. :

This is a petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.150 dated 27.08.2022, under Section 21 of the NDPS Act, 1985, registered at Police Station Patti, District Tarn Taran.

Pursuant to order date 18.01.2023 passed by this Court, Status Report by way of Affidavit of Gurmeet Singh Chauhan, IPS, Senior Superintendent of Police, Tarn Taran, District Tarn Taran, has already been filed on behalf of respondent-State, which is ordered to be taken on record.

It is the case of the prosecution that on 27.08.2022, when police party was on patrolling duty, a Scooty of black colour, which was being driven by a youngman and a lady sitting on pillion, was signalled to stop.

On seeing the police party, the driver of the Scooty suddenly turned back

and therefore, on the basis of suspicion, they were stopped. On asking, the youngman disclosed his name as Pardeep Kumar and the lady disclosed her name as Ashu Jain wife of Pardeep Kumar. Their search was conducted as per rules. A polythene bag containing something heavy was recovered from the right pocket of his pants. He told that the same was heroin. On weighing, the same was found to be 258 grams, which was taken into possession as per rules. Then search of the present petitioner was conducted through lady Constable. One polythene bag was recovered from the under-shirt of the petitioner. On opening the same, it was found to be containing 32 small pouches containing heroin and on weighing, the same was found to be of 08 grams. Further, on search of Scooty, drug money of Rs.24,000/- was recovered and was taken into possession.

Learned counsel for the petitioner states that the petitioner is in custody since 27.08.2022. She is a lady. The trial is likely to take a long time to conclude. Only 08 grams of heroin was recovered from her. In support of his contentions, learned counsel for the petitioner has relied upon **Amar Singh Ramji Bhai Barot vs. State of Gujarat** reported as **2005(4) Criminal Court Cases 559** wherein it was held that quantity carried by two accused persons could not be added to bring it within the meaning of commercial quantity. Therefore, it was prayed that the petitioner be granted concession of regular bail.

Learned State Counsel, on the other hand, while opposing the prayer made by learned counsel for the petitioner, states that the co-accused of the petitioner is none else but her husband and from both of them, a total of 266 grams of heroin was recovered, which could not have been

segregated and the same clearly falls under the commercial quantity. So, in view of the peculiar circumstances of the present case, the petitioner is not entitled to be granted the concession of regular bail. However, he does not deny the fact that the petitioner is in custody since 27.08.2022.

Heard.

In the present case, recovery of only 08 grams of heroin was effected from the present petitioner. The recovery effected from the co-accused, though he is her husband, cannot be attributed to the petitioner. Keeping in view the fact that the petitioner is in custody since 27.08.2022 and the completion of trial will also take a long time, no useful purpose would be served by keeping the petitioner behind bars for a long period.

Accordingly, without commenting upon the merits of the case, the present petition is allowed and the petitioner is directed to be released on regular bail, on his furnishing bail bonds/surety bonds, to the satisfaction of learned Trial Court/Duty Magistrate, Amritsar.

However, nothing contained herein above shall be construed as an expression of opinion on the merits of the case.

February 17, 2023
monika

(GURBIR SINGH)
JUDGE

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