

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-52045-2023
Date of decision:-17.11.2023

Krishan Singh @ Krishna Singh

... Petitioner

Versus

State of Punjab

.. Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr.K.S. Sidhu, Advocate
for the petitioner.

Mr.Anup Singh, AAG, Punjab.

SUVIR SEHGAL, J. (ORAL)

1. This second petition has been filed under Section 439 Cr.P.C.
seeking grant of post-arrest bail in:-

FIR No.	Dated	Police Station	Sections
112	07.07.2022	City, Jalalabad, District Fazilka	21 of NDPS Act (later on offence under Sections 353, 332, 186, 224, 225, 148, 149 IPC were added)

2. By making a reference to order dated 06.10.2023, Annexure P5,

counsel for the petitioner submits that the first petition preferred by the petitioner was withdrawn with liberty to file a fresh one as the petitioner inadvertently did not mention his criminal past. Counsel submits that the petitioner is named as an accused in three other criminal cases, out of which one has been registered against him for offence under the NDPS Act in which he has been released on regular bail by order dated 21.07.2023, Annexure P4. By referring to the allegations levelled in the FIR, counsel submits that the FIR, Annexure P1, has been registered on the basis of the secret information that Swaran Singh @ Shambu and Mohinder Kaur are indulging in the trade of intoxicants. A Police Constable, Prem Chand, was sent as a decoy customer but when the main accused suspected his identity, they tied him up and assaulted him. Counsel submits that the allegation against the petitioner is that he was also one of the assailants and was armed with a wooden stick. He submits that the falsity of this allegation is apparent from the status report, Annexure P6 filed by the State in the previous petition, wherein it has been mentioned that after medical examination of Prem Chand, the nature of the injury has been reported as “cannot be ascertained”. Still further, it is his argument that recovery of 10 grams of heroin has allegedly been effected from the main accused, which falls in the non-commercial category. He submits that investigation qua the petitioner is complete, challan has been presented and the trial is likely to take time to conclude, therefore, the petitioner deserves to be released on bail.

3. *Per contra*, State counsel upon instructions has opposed the petition and submits that the petitioner is hand-in-glove with the main co-

accused and had obstructed police officials from performing their duty. He could not dispute that no recovery has been effected from the petitioner, but asserts that another official, Karamveer, has been injured. State counsel submits that no leniency deserves to be shown to the petitioner as he is a habitual offender. Referring to the status report, Annexure P6, State counsel submits that charge has been framed against the accused on 31.10.2022 but out of twenty, no prosecution witnesses, has been examined.

4. Having heard counsel for the parties, this Court is of the view that the petitioner deserves to be enlarged on bail. As no recovery has been effected from the petitioner, Section 37 of the NDPS Act is not attracted. Though petitioner is alleged to be a member of the unlawful assembly, yet there is no specific attribution towards him. Noticing the nature of allegations levelled against the petitioner, length of custody of more than six and a half months and the stage of trial, this Court has no hesitation in acceding to the prayer made in the petition.

5. Without adverting to the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be released on bail on furnishing adequate bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate, concerned.

6. While being released on bail, the petitioner shall furnish an undertaking to the effect that he shall not indulge in any criminal activity. In case, he violates the undertaking, it shall be open to the prosecution to seek cancellation of bail.

7. Any observation made hereinabove shall not be construed to be an

expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

17.11.2023
Brij

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No