

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-55120-2022 (O&M)

Date of decision: 21.02.2023

GURWINDER SINGH

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Aman Raj Bawa and Mr. R.K. Choudhary, Advocates
Mr. R.S. Bains, Sr. Advocate
for the petitioner.

Mr. Kamalpreet Bawa, AAG Punjab.

AMAN CHAUDHARY. J.

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in respect of FIR No.80 dated 27.09.2022, under Section 21 of the NDPS Act (Section 29 of the NDPS Act) registered at Police Station Arif ke, District Ferozepur.

Learned counsel contends that the petitioner was not named in the FIR and his name surfaced based on disclosure statement made by co-accused and it is thereafter that the petitioner was arrested. On his disclosure statement, contraband which falls within the non-commercial quantity as per the Schedule of the NDPS Act was recovered. He is in custody since 27.09.2022. Challan has been presented, however, charges are yet to be framed and in all there are 14 witnesses. He is not involved in any other criminal case. He submits that recovery memos are also separate, recovery having been effected on different dates therefore recovery effected from him cannot be clubbed with the recovery made from co-accused.

Learned State counsel opposes the bail on the ground that recovery of 50 grams of heroin has been effected from the co-accused, pursuant to his disclosure statement. He is however unable to controvert the submissions made by learned counsel for the petitioner with regard to custody, recovery effected and stage of the case.

Heard.

In view of the facts and circumstances of the case, in particular that the petitioner is in custody since 27.09.2022; he is not involved in any other case; recovery effected from the petitioner is non-commercial as per the Schedule of the NDPS Act, therefore, rigors of Section 37 of NDPS Act are not attracted in the present case; though challan has been presented, however, charges are yet to be framed; in all there are 14 prosecution witnesses; the trial is likely to take a considerable time, his further detention behind bars would not serve any useful purpose, thus the present petition for grant of regular bail deserves to be allowed.

As a result, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to him not being required in any other case. The petitioner shall abide by the following conditions:-

1. The petitioner will not tamper with the evidence during the trial.
2. The petitioner will not pressurize/ intimidate the prosecution witnesses.
3. The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
4. The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.
5. The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/ her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.

- 6. The petitioner shall not in any manner misuse his liberty.
- 7. The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.
- 8. The petitioner shall deposit his passport, if any, with the Trial Court forthwith and in case, he does not have the passport, he shall furnish a specific affidavit in this regard.

It is made abundantly clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

In view of the above, this Court makes it clarified that the observations made herein above are limited for the purpose of present proceedings and would not be construed as any opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AMAN CHAUDHARY)
JUDGE

February 21, 2023

S.Sharma(syr)

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No