

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-55418-2023

Date of Decision:-09.11.2023

Harish.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Ankush Dhanerwal, Advocate for the Petitioner.

Mr. Harkanwar Jeet Singh, Assistant Advocate General,
Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.113 dated 07.04.2023 under Sections 21, 61, 85 of the NDPS Act, 1985 registered at Police Station City Kharar, District SAS Nagar.

2. The brief facts of the case are that while the police party was on patrolling duty secret information was received that Harish (petitioner) son of Suresh and Aman Sodhi @ Aman (since granted bail vide order dated 20.10.2023 in CRM-M-52829-2023) son of Iqbal were in the business of selling Heroin in the area of Chandigarh and Mohali which they brought from Delhi. They would be coming in their car for supplying Heroin in the area of Kharar. If a *nakabandi* was set up they could be apprehended.

Based on the aforesaid information, Harish and Aman Sodhi were apprehended at the checkpoint along with their swift car and on a search

being conducted 270 grams of Heroin was recovered from the pocket of Harish and 260 grams of Heroin was recovered from the pocket of Aman Sodhi.

During interrogation they stated that they were known to one Rupa wife of Harjit Singh and they all had planned to start selling Heroin. There were financial transactions also between them (accused) and Rupa. Based on the said statement, Rupa was nominated as an accused and the offence under Section 29 of the NDPS Act was added.

3. The Counsel for the petitioner contends that 270 grams of Heroin has been recovered from the petitioner which is marginally above the commercial quantity of 250 grams. The recovery from his co-accused Aman Sodhi @ Aman of 260 grams of Heroin cannot be added to the recovery from the petitioner as in each case, the recovery was from the personal possession of the accused and there cannot be any joint possession in the instant case. As the petitioner was a first time offender, in custody since 7.4.2023 and none of the 16 prosecution witnesses had been examined so far, he was entitled to the concession of bail, moreso when his co-accused Aman Sodhi @ Aman had been granted the similar concession.

4. The Counsel for the State, on the other hand, contends that both the petitioners were travelling in the same vehicle. From the petitioner recovery of 270 grams of Heroin came to be effected and from his co-accused the recovery of 260 grams of Heroin came to be effected. The total quantity recovered was 530 grams of Heroin which fell into the commercial quantity category. Therefore, the petitioner was not entitled to the concession of bail. He, however, concedes that the petitioner was a first-time offender, in custody since 7.4.2023, none of the 16 prosecution witnesses have been examined so far and that the co-accused had been

granted the concession of bail.

5. I have heard Counsel for the parties.

6. In the cases of '*Sukhchain Singh @ Manga Versus State of Punjab, CRM-M-7857-2022 decided on 04.04.2022, Pardeep Singh versus State of Punjab, CRM-M-46244-2022 decided on 19.01.2023, Hari Yadav @ Haiya versus State of Punjab (CRM-M-37645-2021) decided on 11.11.2022, Jang Kanwar Versus State of Punjab (CRM-M-53415-2021) decided on 19.01.2022, Shankar Prashad Chanau Versus The State of Punjab, CRM-M-24090-2020, decided on 27.08.2020, Gurpreet Kumar Versus State of Punjab, CRM-M-17021-2021, decided on 31.08.2021, Salim Versus State of Haryana, CRM-M-42436-2020, decided on 24.02.2021, Gagandeep Versus State of Punjab, CRM-M-3055-2021, decided on 27.01.2021, Gurpreet Singh @ Gopi Versus State of Punjab, CRM-M-41039-2019, decided on 26.02.2020, Dalbara Singh Versus State of Punjab, CRM-M-47880-2022 decided on 16.01.2023, Vivek Watts versus State of Punjab, CRM-M-13791-2022 decided on 15.02.2023, Rajender Singh @ Raju versus State of Haryana, CRM-M-47528-2022 decided on 02.03.2023 and Sukhwinder alias Sukha versus State of Haryana, CRM-M-47859-2022 decided on 13.03.2023*', where the recovery from the accused was marginally above the commercial quantity for the respective contraband in each case, the Court granted bail to the accused therein.

7. Admittedly, the recovery from the petitioner and his co-accused was from their personal possession. Whether their recoveries could be clubbed together would be adjudicated upon during the course of the Trial. However, at this stage, as the recovery from the petitioner is of 270 grams of Heroin which is marginally above the commercial quantity of 250 grams, he

is a first time offender, in custody since 7.4.2023 and none of the 16 prosecution witnesses having been examined till date, the further incarceration of the petitioner is not required when his co-accused has already been granted the said concession of bail.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Harish** son of Sh. Suresh is ordered to be released on bail subject to her furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

10. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the present case.

11. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

12. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

November 09, 2023

Vinay

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