

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

276

CRM-M-58509-2022 (O&M).

Date of Decision: 10.04.2023.

Gurdev Singh @ Laddi**...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ***********

Present: Mr. Prateek Pandit, Advocate, for the petitioner.

Ms. Niharika Sharma, AAG, Punjab.

***********VINOD S. BHARDWAJ. J (ORAL)**

The instant **Second** petition has been filed under Section 439 of the Code of Criminal Procedure, for the grant of regular bail in FIR bearing No.169 dated 17.09.2021, registered under Sections 21 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'the NDPS Act') at Police Station Kot Ise Khan, District Moga.

Learned counsel for the petitioner contends that as per the case of the prosecution, a secret information was received by ASI Nirmal Singh while on patrolling duty that one Baaj Singh @ Baji (co-accused of the petitioner) and the petitioner namely Gurdev Singh @

Laddi are involved in the trade of narcotics and that they are on their way to village Daulewala and in the event of their apprehension, recovery of narcotic drugs can be effected. A ruqa was accordingly sent to Police Station for registration of the FIR. The petitioner was intercepted and 300 grams of heroin was statedly recovered from the petitioner while 50 grams of heroin was recovered from the co-accused of the petitioner namely Baaj Singh @ Baji.

Learned counsel further contends that the petitioner has been falsely arraigned in the present case. There is non-compliance of the provisions of Section 42 of the NDPS Act. A mere sending of the ruqa to the police station would not be in compliance with the mandatory provisions of the NDPS Act and that the said non-compliance would go to the root of the police proceedings. He further contends that despite receipt of secret information, no gazetted officer had been called to the spot and further, the provisions of Sections 52, 52-A and 57 of the NDPS Act had also not been complied with. He further contends that the co-accused of the petitioner namely Baaj Singh @ Baji has been granted the concession of regular bail. He vehemently contends that the petitioner is in custody since 17.09.2021 and has already undergone an actual custody period of 1 year and 7 months. It is submitted that no witness has been examined by the prosecution even though as many as 15 witnesses had been cited by the prosecution.

Learned State counsel contends that there were three other cases against the petitioner that had been registered under the NDPS Act. She, however, does not dispute the fact that the co-accused of the

petitioner already stands released on bail. She further contends that commercial quantity has been recovered from the petitioner in the present case and therefore, petitioner does not deserve the concession of regular bail.

Learned counsel for the petitioner contends that in so far as the previous cases registered against the petitioner are concerned, the same are not of commercial quantity and he has already been enlarged on bail in those cases.

I have heard the learned counsel appearing on behalf of the respective parties.

Taking into consideration the period of actual custody undergone by the petitioner in the present case and the stage of the trial and also the fact that co-accused of the petitioner has already been released on regular bail, I deem it fit to allow the instant petition.

Accordingly, the instant petition is allowed. However, keeping in view the fact that the petitioner is also involved in other cases of similar nature, he will be admitted to regular bail subject to his furnishing heavy bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witness in any manner directly or indirectly.

The observation made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall decide the case on the basis of available material.

April 10, 2023
raj arora

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No