

(237) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-179-2023

Date of Decision: 12.01.2023

GURCHARAN SINGH

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Ashok Giri, Advocate
for the petitioner.

Mr. Aman Dhir, DAG, Punjab.

JASJIT SINGH BEDI, J.

The petitioner seeks the grant of regular bail under Section 439 Cr.P.C. in case bearing FIR No.66 dated 31.10.2021 registered under Section 18 of NDPS Act, 1985 at Police Station Handesra, District SAS Nagar, Mohali.

2. The brief facts of the case are that while the police party was on patrolling duty one disabled turbaned person was seen carrying a black coloured bag on his left shoulder. On seeing the police party, he turned and started walking fast. He was detained and disclosed his name as Gurcharan Singh (petitioner) son of Lal Singh. The search of his bag revealed 2 kgs opium contained in a plastic polythene bag.

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. He is a handicapped person and cannot walk without the support of crutches. Be that as it may, taking the prosecution case to be true, 02 kgs opium was recovered from him which is a

non-commercial quantity, the commercial quantity being more than 2.5 kgs. Therefore, as the rigors of Section 37 of the NDPS Act are not attracted in the present case, the petitioner deserved the concession of regular bail.

4. On the other hand, the learned State counsel contends that the petitioner has committed a serious offence and is not entitled to the grant of regular bail. He, however, does not dispute the fact that the petitioner has been in custody since 31.10.2021 and only 01 out of the 10 prosecution witnesses has been examined so far.

5. I have heard the learned counsel for parties.

6. Admittedly, the recovery from the petitioner is of non-commercial quantity of contraband. The petitioner is a first-time offender with no other case registered against him. The rigors of Section 37 of the NDPS Act would not be applicable in the present case. Only 01 prosecution witness has been examined so far out of the 10 cited in the list of witnesses. As such, the Trial of the present case is not likely to be concluded anytime soon. Therefore, the further incarceration of the petitioner is not required.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Gurcharan Singh son of Lal Singh is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

9. 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.

10. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- 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.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

12.01.2023

JITESH

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