

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-60695-2023
Date of Decision:-08.12.2023

JATINDER SINGH ALIAS GHUGGI

... Petitioner(s)

Versus

STATE OF PUNJAB

... Respondent(s)

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CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

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

Mr. G.S. Sidhu, AAG, Punjab.

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JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.2 dated 18.01.2023, under Sections 21, 29 of NDPS Act, registered at Police Station Division No.1 District Jalandhar.
2. The counsel for the petitioner submits that he is in custody since 18.1.2023 and allegedly there was a recovery of 260 grams of Heroin. As per the case of prosecution, on the face of it, the petitioner has been falsely implicated by the police and the petitioner is not a habitual offender and is not involved in any other case. While substantiating the arguments, the counsel for the petitioner submits that as per the

FIR (Annexure P-1), the same was registered on 18.1.2023 and time of occurrence is shown as 18:10 hour i.e. 6:10 pm and he thereafter referred to (Annexure P-2), which is ruqa, wherein entire discrepancy has been made in the recovery and in the end of the same after sealing the packets etc. the same were sent at the appropriate place by way of ruqa and the date on aforesaid ruqa is stated to be same date as **18.1.2023** and the time is **6:00** pm. He further submitted that the entire exercise was completed at the police station and the aforesaid 2 documents on the face of it are contrary to each other and show that the petitioner has been falsely implicated in the aforesaid case and there is clear-cut discrepancy and further prayed that the petitioner is entitled to grant of bail as he is not a habitual offender. It is further submitted that bar of Section 37 of NDPS Act will not apply in the present case since the petitioner has been falsely implicated in the present case. The investigation of the case is already complete and thereafter, challan has been presented before the competent Court.

3. The learned State counsel has not disputed the custody period of the petitioner. It is also not disputed that the petitioner is not in custody in any other case. However he has opposed the grant of bail to the petitioner as 260 grams of Herion, was recovered from him, which falls under the commercial quantity.
4. I have heard the learned counsel for the parties.
5. The present is case where the petitioner has allegedly been falsely implicated, whose antecedents has not been disputed by the learned State counsel. The time of information received, as per FIR

(Annexure P-1) and the date of compliance in the ruqa (Annexure P-2), where lodging of the time is shown at 6:10 pm on 18.1.2023 would show that *prima-facie* some discrepancies are there. Considering the aforesaid facts and circumstance, although the challan has been presented and the false implication could be proved only at the time of trial, but only for the purpose of considering regular bail wherein he has already been in custody for about 11 months and he is having clean antecedents, the bar of Section 37 of the NDPS Act, at this stage, would not be applicable to the petitioner.

6. Consequently, the present petition is allowed. The petitioner shall be released on regular bail, if not required in any other case, subject to furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.
7. However, anything observed hereinabove, shall not be treated as an expression of opinion on the merits of the case and is meant for the purpose of deciding the present petition only.

08.12.2023
Gaurav Sorot

(JASGURPREET SINGH PURI)
JUDGE

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