

2024:PHHC:060447

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

210

CRM-M-4602-2024
Date of decision : 02.05.2024

Satwinder Singh @ Sajjan @ Satinder Singh Petitioner

versus

State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Fateh Singh Bhullar, Advocate
for the petitioner.

Mr. Mohit Kapoor, Sr. DAG, Punjab.

PANKAJ JAIN, J. (Oral)

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.100 dated 03.10.2022, registered for the offences punishable under Sections 21-C, 29, 61 and 85 of NDPS Act at Police Station Khalra, District Tarn Taran.
2. As per the case of prosecution, two persons were apprehended riding motorcycle. Petitioner is owner and driver of the same. It is claimed by the prosecution that on seeing barricading, pillion rider threw polythene bag at the left side of corner of the road from which 256 gms of heroin was recovered.
3. Counsel for the petitioner has relied upon order dated 18.03.2024 passed in CRM-M-23152-2023 whereby pillion rider Amit Sharma @ Gopi who faces the material allegations stands admitted to bail observing as under:-

2024:PHHC:060447

“1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail in case FIR No.0100 dated 03.10.2022 registered under Sections 21(C), 29 of NDPS Act, at Police Station Khalra, District Tarn Taran.

2. It has been alleged in the FIR that a police team was on patrolling duty and then they saw two persons coming at fast speed on the bike, then the police signalled them to stop. The person, sitting at the rear seat, took out one polythene bag and had thrown at the left side of the road in the grass. When they were apprehended by the police, 260 grams of heroin was found in conscious possession from the petitioner. The driver of the vehicle told his name as Satwinder Singh alias Sajan and person sitting at rear seat told his name as Amit Sharma @ Gopi.

3. Learned counsel for the petitioner contends that neither any recovery has been made from the present petitioner nor any incriminating article has been held by him. He further submits that the petitioner is in custody since 03.10.2022 and the investigation in this case has already been completed and challan has been presented. Trial is likely to take long time. No useful purpose will be served by further detention of the petitioner in custody. Thus, it is prayed that he may be released on regular bail. In support of his contentions, learned counsel for the petitioner has relied upon judgments in (i) **CRM-M-37684-2021, Balwinder Singh vs. State of Punjab**, decided on 14.02.2022; (ii) **CRM-M-8212-2022, Tajinder Singh vs. State of Punjab**, decided on 03.03.2022 and (iii) **CRM-M-35186-2016, Manjit Kaur @ Jeeto vs. State of**

2024:PHHC:060447

Punjab, decided on 01.12.2016.

4. On the other hand, learned counsel for the State vehemently opposed the submissions made by learned counsel for the petitioner. However, he fairly conceded the fact that petitioner is not involved in any other criminal activity.

5. Keeping in view the facts and circumstances of the case, custody period of the petitioner and also the fact that the quantity of alleged contraband is marginally above the 'commercial quantity', but without commenting on merits of the case, I am of the considered view that the petitioner deserves the concession of regular bail.

6. Therefore, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of bail/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate concerned."

4. Custody certificate has been produced. As per the same, the petitioner has undergone actual custody of more than 01 year, 06 months and 28 days by now and has clean antecedents apart from conviction under Section 52A of Prison Act for using mobile while in jail. Only 01 out of 10 witnesses could be examined. Most of the witnesses are official witnesses, there cannot be any apprehension that the petitioner shall tamper with the evidence.

5. Keeping in view the incarceration already suffered by the petitioner and the fact that main accused has already been granted regular bail by this Court, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate,

2024:PHHC:060447

concerned. However, in addition to conditions that may be imposed by the Trial Court/Duty Magistrate concerned, the petitioner shall remain bound by the following conditions :-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence oral or documentary during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any with the trial Court.
- (vi) The petitioner shall give his cellphone number to the police authorities and shall not change his cell-phone number without permission of the trial Court.
- (vii) The petitioner shall not in any manner try to delay the trial.

6. In case of breach of any of the aforesaid conditions and those which may be imposed by the Trial Court, the prosecution shall be at liberty to move cancellation of bail of the petitioner.

7. Ordered accordingly.

(PANKAJ JAIN)
JUDGE

02.05.2024
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No