

209

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-6572-2024 (O&M)
Decided on: 15.04.2024

Gursewak Singh

.... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Ankur Jain, Advocate
for the petitioner.

Mr. A.S. Pannu, AAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present is a third petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.61 dated 14.07.2021, under Sections 21(c), 27 & 29 of the NDPS Act, 1985 and Sections 25/27/30 of the Arms Act, 1959 and Sections 212, 216 & 109 IPC, 1860 registered at Police Station Khalra, District Tarn Taran.

2. Learned counsel for the petitioner submitted that the petitioner is in custody from 2 years and 9 months and as per the allegations, the police party on getting information with regard to the petitioner and his wife, had raided the house of the petitioner from where there had been an alleged recovery of one 315 bore rifle from the petitioner which is a licensed weapon in the name of his wife and also there was a recovery of about 300 grams of *Heroin* from one of the co-accused, namely, Amritpreet Singh. He further submitted that there was no recovery of any contraband from the petitioner and even otherwise also the

rifle which also recovered from him is a licensed weapon in the name of his wife. He submitted that although the petitioner is involved in four more cases, out of which, one is under the NDPS Act but in the present case the petitioner has been implicated only on the ground that he is involved in other cases. He submitted that considering the aforesaid facts and circumstances and also considering the custody of the petitioner, he may be considered for the grant of regular bail.

3. On the other hand, Mr. A.S. Pannu, learned AAG, Punjab has filed a status report by way of an affidavit of DSP, Sub Division Valtaha, Camp at Bhikhiwind, District Tarn Taran on behalf of the respondent/State and submitted on instructions from ASI Hans Singh that it is correct that the petitioner is in custody from 2 years and 9 months and five witnesses have already been examined. He submitted that he has also sought instructions to state that the rifle which was recovered from the petitioner is a licensed weapon which is duly in the name of his wife. He further submitted that so far as the present petitioner is concerned, there was no recovery of any contraband from him but there were two co-accused, who were trying to run away and were caught on the spot and thereafter, there was a recovery of 300 grams from one of the co-accused, namely, Amritpreet Singh and another co-accused, namely, Jagpreet Singh was apprehended on whose disclosure statement, thereafter, there was a recovery of 1 kg. of *Heroin* and one 32 bore pistol and so far as the present petitioner and his wife are concerned, there was no recovery of any contraband from them.

4. I have heard the learned counsels for the parties.

5. It is a case where the petitioner has faced incarceration for 2 years

and 9 months. As per the learned counsels for the parties, the charges in the present case were framed on 11.10.2022 and till date only 5 witnesses have been examined. Even as per the prosecution story and as per the learned counsel for the parties, the only recovery from the petitioner was one 315 bore rifle which is a licensed weapon in the name of his wife. No contraband has been recovered from the petitioner. The aforesaid co-accused, namely, Amritpreet Singh, from whom, there has been an alleged recovery of 300 grams *Heroin*, has already been extended the benefit of regular bail by a Co-ordinate Bench of this Court on 15.01.2024 vide Annexure P-2.

6. Since there has been no recovery of any contraband from the petitioner, this Court is of the considered view that the bar contained under Section 37 of the NDPS Act will not apply in the present case qua the present petitioner.

7. In view of the aforesaid facts and circumstances of the present case, the present petition is allowed and the petitioner is ordered to be released on regular bail on furnishing bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.

8. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant only for the purpose of decision of present petition.

15.04.2024

Bhumika(JASGURPREET SINGH PURI)
JUDGE

1. Whether speaking/reasoned:	Yes/No
2. Whether reportable:	Yes/No