

In the High Court for the States of Punjab and Haryana
At Chandigarh

CRM-M-9692-2024 (O&M)
Date of Decision:-29.2.2024

Pardeep Kumar ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Achin Gupta, Advocate and
Mr. Karan Bansal, Advocate for the petitioner.

Mr. Vinay Kumar Malhotra, DAG, Punjab.

FIR No.	Dated	Police Station	Section/s
149	4.5.2022	City Faridkot, District Faridkot	21(c) of Narcotic Drugs and Psychotropic Substances Act, 1985 (later on added offence under Section 29 of NDPS Act), charges framed under Sections 22(c)/22(b)/27-B and 29 of NDPS Act

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks grant of regular bail in respect of the aforementioned FIR.
2. As per the case of prosecution, on 4.5.2022, a secret information was received by the police at about 01.00 am (early morning) to the effect that Shivam, Ravi, Deepak alias Gutriwala, Baljeet Singh, Heera Singh, Amritpal Singh @

Jinda and Pardeep Kumar @ Bablu indulged in sale of intoxicant substances. ASI Harcharan Singh was able to apprehend the said 7 persons with the help of his companions. One of the said 7 persons threw a transparent polythene bag on the ground which could be seen with the lights of the vehicle. The said polythene bag was found to contain 300 grams of '*Heroin*'. Upon personal search, some amount was also recovered from the accused.

3. Learned counsel for the petitioner submits that as many as 7 persons have been roped in on the basis of allegation of recovery of 300 grams of '*Heroin*' whereas none of the said seven accused can be said to be in possession of the said contraband as it was not recovered from anybody's physical possession.
4. It has further been submitted that the falsity of the case of prosecution would be evident from the fact that an absolutely identically situated co-accused namely Shivam, who is also named in the FIR and is alleged to have been arrested with the petitioner and co-accused, was given a clean chit on the very next date i.e. on 5.5.2022. Learned counsel has submitted that since identically situated co-accused Deepak @ Gutriwala, Ravi Kumar and Hira Singh have already been granted bail by this Court vide order dated 15.1.2024 passed in CRM-M-691-2024 (Annexure P-2), order dated 29.1.2024 passed in CRM-M-3411-2024 (Annexure P-3) and order dated 28.2.2024 passed in CRM-M-9395-2024, the petitioner also deserves the same concession on grounds of parity.
5. Opposing the petition, learned State counsel submitted that since the petitioner along with co-accused was caught red-handed while all of them were found in collective possession of 300 grams of '*Heroin*', the complicity of the petitioner is clearly evident. It has further been submitted that the

petitioner happens to be involved in 2 other similar cases. Learned State counsel has passed on the custody certificate indicating that the petitioner as on date has been behind bars since the last about 1 year, 5 months and 28 days. It has also been informed that as on date none out of the cited 22 PWs has been examined.

6. This Court has considered the rival submissions addressed before this Court.
7. While the allegations are very specific in the FIR and all the seven persons have been named therein, but the possession of the contraband is not specifically attributed to any of the seven accused and the polythene bag is stated to have been thrown on the ground by one of the accused. It would be debatable as to whether the petitioner can be said to be in conscious possession of the said contraband.
8. Still further, this Court finds that the police on the very next day gave a clean chit to co-accused Shivam, who was absolutely identically situated and had been arrested along with the petitioner and other co-accused under similar circumstances. This Court further finds that since identically situated co-accused Deepak @ Gutriwala, Ravi Kumar and Hira Singh have already been granted bail by this Court vide order dated 15.1.2024 passed in CRM-M-691-2024 (Annexure P-2), order dated 29.1.2024 passed in CRM-M-3411-2024 (Annexure P-3) and order dated 28.2.2024 passed in CRM-M-9395-2024, the petitioner, who has been behind bars since the last about 1 year, 5 months and 28 days, also deserves the same concession on grounds of parity. As such, under the given circumstances the petitioner can be extended the benefit of bail particularly bearing in mind that conclusion of trial is likely to consume time inasmuch none out of cited 22 PWs has been examined till date. The

petition, as such, is accepted and the petitioner is ordered to be released on bail subject to his furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

29.2.2024
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(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No