

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-10677-2024
Date of decision:-09.04.2024

Jagtar Singh @ Kaku... Petitioner

Versus

State of Punjab.. Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr.R.S. Sekhon, Advocate
for the petitioner.

Ms.Amrita Garg, AAG, Punjab.

SUVIR SEHGAL, J. (ORAL)

1. This second petition has been filed under Section 439 Cr.P.C. seeking grant of post-arrest bail in:-

FIR No.	Dated	Police Station	Section
65	07.08.2023	Sarai Amant Khan, District Tarn Taran	21(c) of NDPS Act.

2. Version of the prosecution is that FIR, Annexure P1, was registered when on suspicion a motorcycle with two riders was intercepted. Upon inquiry, the driver of the motorcycle disclosed his name as Gurlal Singh @ Lalli and the pillion rider identified himself as Jagtar Singh @ Kaku (present petitioner). Upon search, recovery of intoxicant powder was effected from the present petitioner.

3. Counsel for the petitioner contends that although it has been

alleged that the petitioner was in possession of contraband but as per report dated 29.09.2023 received from the FSL, the substance has been found to contain Paracetamol and Caffeine. He asserts that no intoxicant has been found on the person of the petitioner, who is languishing behind bars since 11.08.2023.

4. *Per contra*, State counsel has filed the custody certificate dated 08.04.2024, which is taken on record. She submits that the petitioner has been named as an accused in another FIR lodged under the NDPS Act. She asserts that the recovered substance has been again sent to the laboratory for retesting, however fresh report is awaited. She could not dispute that co-accused Gurlal Singh @ Lalli has been released on regular bail by this Court vide order dated 06.03.2024.

5. I have heard counsel for the parties and considered their respective submissions.

6. As no prohibited substance has been recovered from the possession of the petitioner, State cannot take the plea of bar under Section 37 of the NDPS Act. Petitioner has been in custody for last more than eight months, although apparently the prosecution does not possess any incriminating material against him. He, therefore, deserves the concession of bail during the pendency of the trial.

7. Without adverting to the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be released on bail on furnishing adequate bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate, concerned.

8. It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

09.04.2024
Brij

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No