

CRM-M-12394-2024 (O & M) ::1:-

(228) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-12394-2024 (O & M)
Date of Decision: 14.03.2024

Gopal Singh @ Gopa

... Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Manjinder Singh Saini, Advocate, for the petitioner.

Mr. Deepinder Singh Brar, Sr. DAG, Punjab.

JASJIT SINGH BEDI, J.

The prayer in this second petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in case FIR No.157 dated 14.11.2023 under Sections 21-b/61/85 of the NDPS Act and Section 25 of the Arms Act, registered at Police Station Adampur, District Jalandhar, Punjab.

2. The brief facts of the case are that the petitioner came to be apprehended with 20 grams of heroin, one pistol alongwith 06 live cartridges.

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. There is violation of the mandatory provisions of the NDPS Act including Sections 42 and 50 of the Act. No independent witness was joined at the time of the alleged recovery. Though, the petitioner had other cases registered against him under the Arms Act, he was a first-time offender so far as the provisions of NDPS Act were concerned. Therefore, he was entitled to the concession of bail, moreso, as

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the purported recovery of contraband was of non-commercial quantity of contraband.

4. The learned counsel for the State, on the other hand, contends that other than 20 grams of heroin, one pistol alongwith 06 live cartridges came to be recovered from the petitioner. There were 04 other cases in which he is an accused though none were under the NDPS Act. Therefore, keeping in view the seriousness of the allegations and his antecedents, he was not entitled to the concession of bail. He, however, concedes that the petitioner was in custody since 14.11.2023 and none of the 13 prosecution witnesses had been examined so far.

5. I have heard the learned counsel for the parties.

6. Admittedly, the recovery from the petitioner is of non-commercial quantity of contraband i.e. 20 grams of heroin. There is no other case registered against him under the NDPS Act, though, he is an accused in four other cases pertaining to the Arms Act. The provisions of Section 37 of the NDPS Act would not be a bar to the grant bail to the petitioner. He is in custody since 14.11.2023 but none of the 13 prosecution witnesses have been examine so far. Therefore, the Trial of the present case is not likely to be concluded in the near future. In this situation, the further incarceration of the petitioner is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Gopal Singh @ Gopa is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime/case(s) other than the case(s) referred to in this order.
9. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.2,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.
10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

March 14, 2024
sukhpreet

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No