



250/2 **IN THE HIGH COURT OF PUNJAB AND HARYANA**
AT CHANDIGARH

CRM-M-13119-2024

Date of Decision: 29.11.2024

Balwinder Singh @ Binder

...Petitioner

vs.

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Mikhail Kad, Advocate, for the petitioner.
 Ms. Avneet, AAG, Punjab.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail to him in case FIR No.113 dated 24.08.2023 registered under Sections 21 and 29 of NDPS Act and Section 25 of Arms Act, at Police Station Amargarh, District Malerkotla (earlier District Sangrur), till the decision of the case.

2. Learned counsel for the petitioner contends that as per the version of the prosecution, Shampy Singh, Baljit Singh @ Bantu, Ravi Singh @ Ajay and Ravi Singh were apprehended by the police, while they were carrying 500 grams of heroin in their car. After their arrest, another 255 grams of heroin, Rs. 2 lacs as drug money and one pistol were also recovered from Shampy Singh, co-accused. Learned counsel for the petitioner further submits that the petitioner was not initially named in the FIR and has been nominated as an accused on the basis of the disclosure statement suffered by Ravi Singh to the effect that the contraband was purchased from the petitioner. The petitioner was arrested in the present case on 03.12.2023 and 5 grams of heroin was recovered from him.



However, the said recovery is non-commercial in nature and the rigors of Section 37 of NDPS Act would not apply to the facts of the present case.

3. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that the petitioner has already convicted in two cases and five more cases are pending against him. The petitioner is a habitual offender and is not entitled to concession of bail by this Court.

4. I have heard the learned counsel for the parties and perused the record.

5. In the present case, the commercial quantity of contraband was recovered from four co-accused, namely, Shampy Singh, Baljit Singh @ Bantu, Ravi Singh @ Ajay and Ravi Singh. The petitioner was arrayed as an accused on the basis of the disclosure statement suffered by Ravi Singh, co-accused, who alleged that he had purchased the contraband from the petitioner. Now the petitioner is in custody for the last more than 11 months and the recovery of 5 grams of heroin had taken place from him, which is non-commercial in nature. Even though, the petitioner is involved in other criminal cases, but he cannot be confined in jail for an indefinite period.

6. Without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned, subject to the following conditions:-

(i) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the

facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.

(ii) The petitioner shall remain present before the Court on the dates fixed for hearing of the case.

(iii) The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.

(iv) The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.

(v) The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.

(vi) In case, the petitioner involves in any other criminal activity, during the pendency of the trial, it shall be viewed seriously.

(vii) The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bails bonds and surety bonds of the petitioner.

(viii) The petitioner shall report every 1st and 3rd Monday in English calander month to the concerned SHO till the conclusion of the trial and SHO shall mark his presence by making an entry in the rojnamcha. In case, he does not report on every 1st and 3rd Monday to the concerned SHO, it shall be viewed seriously and the concession granted to him shall be liable to be cancelled and the State of Punjab shall be at liberty to move an appropriate application in this regard.

29.11.2024.
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(N.S.SHEKHAWAT)
JUDGE

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