

CRM-M-37971-2021 -1-

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

202-2. CRM-M-37971-2021
Date of decision:05.01.2024

GURPARTAP SINGH ... PETITIONER

VERSUS

STATE OF PUNJAB ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Davinder Singh Khurana, Advocate
for the petitioner.

Ms. Anju Kaushik Sharma, DAG, Punjab.

SUVIR SEHGAL J. (ORAL)

1. This is the 2nd petition filed by the petitioner under Section 439
of Cr.P.C. for grant of regular bail in:-

FIR No.	Dated	Police Station	Sections
28	26.04.2019	STF, SAS Nagar Mohali, District Mohali	21, 25, 27 and 29 of the NDPS Act, 1985

2. Case of the prosecution is that FIR, Annexure P-1, has been registered on the basis of secret information that Surinder Kumar, Rahul @ Raghu, Saraj Singh @ Mintu, Harpartap Singh @ Happy, his younger brother, Gurpartap Singh (present petitioner) and Neha are indulging in trade of narcotics. Some of the accused are

confined in jail and are running the smuggling network on mobile phones. A barricade was set up and a motorcycle with two riders was intercepted. Recovery of 300 grams heroin was effected from the motorcycle, which was being driven by Harpartap and Gurpartap was the pillion rider.

3. Counsel for the petitioner urges that petitioner is not the owner of the motorcycle, from which recovery has been allegedly effected and the motorcycle was being driven by Harpartap Singh, who has been released on bail by this Court vide order dated 06.09.2022 passed in CRM-M-14227-2021. He submits that although the petitioner is involved in some other criminal cases, but he has not been convicted in any of them and deserves to be released on bail as he is languishing behind bars since 27.04.2019. He has also made a reference to the orders passed by this Court, whereby co-accused have also been granted regular bail.
4. Per Contra, Learned State counsel upon instructions from ASI Surinder Kumar, and by making a reference to the status report, asserts that the petitioner has been indulging in the sale of intoxicating substance on the basis of telephonic instructions received from the co-accused from behind the bars. She has opposed the petition by making a reference to the criminal past of the petitioner. She has specific instructions to state that 06 out of 17 prosecution witnesses have been examined.
5. I have heard counsel for the parties and considered their respective submissions.

6. Petitioner is in confinement for the last more than 55 months. Trial is nowhere near conclusion and the mere fact that he is involved in some other criminal cases, including an FIR lodged against him under the NDPS Act, does not mean that he should be kept in confinement till conclusion of trial. Noticing the stage of trial, which is not even mid-way, nature of allegations levelled against the petitioner, recovery allegedly effected from vehicle being driven by the co-accused as well as the length of custody, this Court is inclined to accept the prayer made in the petition.
7. Without adverting to the merits or de-merits of the arguments addressed, petition is allowed. Petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.
8. Any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

05.01.2024
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(SUVIR SEHGAL)
JUDGE

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