

2024:PHHC:163607



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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CRM M-32510 of 2024
Date of Decision: 09.12.2024

Balwinder Singh @ Channa	...	Petitioner
	Versus	
State of Punjab	...	Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Ashok Giri, Advocate, for the petitioner.

Mr. M.S. Bajwa, DAG, 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 a regular bail in case FIR No.131 dated 18.09.2023 registered under Section 21(c)/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Subhanpur, District Kapurthala.

2. Learned counsel for the petitioner contends that as per the case of the prosecution, co-accused, namely Swaran Singh, Kashmir Singh, Atul and Rahul were apprehended by the police, while they were carrying 6kgs of Heroin of Rs. 7 lacs as drug money. The petitioner was neither named in the FIR nor any overt act was attributed to him. He further contends that after 06 days of his arrest, Kashmir Singh, co-accused suffered a disclosure statement on

24.09.2023 in which he named the petitioner as one of the accused. The petitioner was arrested by the police on 10.05.2024 and no recovery was effected from him. He further contends that after completion of the investigation, the challan has already been presented against him and his further custody will not serve any purpose. Learned counsel further contends that even though, 06 more cases were ordered to be registered against the petitioner, but the petitioner is on bail in all the cases registered against him and he has not been convicted in any case so far.

3. On the other hand, learned State counsel has vehemently opposed the prayer made by the learned counsel for the petitioner on the ground that there are serious allegations against the petitioner; petitioner is a habitual offender and the petitioner is not entitled for the concession of regular bail.

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

5. In the present case admittedly the petitioner was not named as accused in the FIR and has been nominated as an accused on the basis of the disclosure statement suffered by the co-accused. He further submits that no recovery was to be effected from him and he is in custody for the last more than 07 months. Moreover, the investigation has been completed in the present case and challan has already been presented before the competent court.

5. In view of the above, without commenting any further on the merits, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/CJM 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 gets involved in any other criminal activity, during the pendency of the trial, it shall be viewed seriously and the prosecution shall be at liberty to move an appropriate application for cancellation of bail granted to the present petitioner.

(vii) *The concerned Court may insist two heavy local surties 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 Monday in English calander month before 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 Monday before 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.*

09.12.2024
amit rana

(N.S.SHEKHAWAT)
JUDGE

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