

CRM-M-40348-2022 -1-

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

202-1. CRM-M-40348-2022
Date of decision:05.01.2024

RAHUL @ RAGHU GILL ... PETITIONER

VERSUS

STATE OF PUNJAB ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Vaibhav Narang, 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	Special Task Force, STF Wing, SAS Nagar Mohali	21, 25 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 (present petitioner), Saraj Singh @ Mintu, Harpartap Singh @ Happy, his younger brother, Gurpartap Singh 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 no recovery has been effected from the petitioner. He submits that the petitioner has been falsely implicated and was lodged in the jail in another criminal case, when FIR, Annexure P-1, was lodged. An argument has been raised by counsel for the petitioner that although it has been alleged that the petitioner was sending instructions on mobile phone, but no electronic device has been recovered from him. Still further, he submits that despite the fact that the petitioner is in detention since 08.07.2019, trial is nowhere near conclusion and petitioner deserves to be released on bail. Counsel further submits that although petitioner is an accused in some criminal cases, but he has not been convicted for any offence under the NDPS Act.
4. Opposing the petition, State counsel upon instructions from ASI Surinder Kumar, and by making a reference to the status report and additional affidavit filed on behalf of the respondent, asserts that the petitioner is hand in glove with the co-accused and is running a well-oiled network on the basis of instructions received from across the international border. She submits that the petitioner has criminal antecedents and is involved in as many as 14 criminal cases, some of which have been lodged against him

for offence under the NDPS Act. She has specific instructions to submit that out of 17 prosecution witnesses, 06 have been examined.

- 5. I have heard counsel for the parties and considered their respective submissions.
- 6. Concededly, no recovery of any prohibited substance has been effected from the petitioner. Therefore, bar under Section 37 of the NDPS Act will not be an obstacle in considering the prayer for bail. It also could not be denied that the petitioner was in confinement when the FIR was registered. Noticing the above, the detention period of more than 4 ½ years as well as the stage of the trial, which is not even half way, this Court is inclined to accept the prayer made in the petition.
- 7. Without advertng 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