



CRM-M-39137-2024

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

CRM-M-39137-2024
Date of Decision: 11.12.2024

Manpreet Singh @ Gora

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Bhunesh Lakhera, Advocate for the petitioner.
Mr. J.S. Arora, DAG, Punjab.

Rajesh Bhardwaj, J. (ORAL)

1. Petitioner has approached this Court by way of present petition praying for granting him regular bail in case FIR No.179 dated 12.12.2023, under Sections 21(c)/65/85 of NDPS Act, 1985 and Sections 25/29/54/59 of the Arms Act, registered at Police Station Chattiwind, Amritsar.

2. As per the facts of the case, on 12.12.2023, the Police party while on patrolling received a secret information to the effect that Manpreet Singh @ Gora (petitioner) carries an illegal weapon i.e., 32-bore pistol including magazine and cartridges and he is wandering with this illegal weapon. It is informed that if the naka is laid, he could be arrested alongwith the weapon. On finding the secret information reliable, the FIR was registered and naka was laid. On pointing out by the secret informer, the accused's vehicle was stopped and the weapon as disclosed was recovered from him. From his search, 265 grams of heroin was also recovered and thus, offence under the NDPS Act added. The petitioner failed to produce any licence regarding the arms and the narcotic substance and hence, he was arrested on spot i.e. on 12.12.2023 itself.



On the registration of the FIR, the investigation commenced. The petitioner approached the Court of learned Judge, Special Court, Amritsar praying for grant of regular bail. However, after hearing both the sides, the learned Court finding no merit in the same, dismissed the bail application filed by the petitioner vide order dated 27.06.2024. Hence, the petitioner approached this Court praying for grant of bail.

3. It has been vehemently contended by counsel for the petitioner that petitioner has been falsely and frivolously implicated in this case. He has submitted that the FIR has been registered against the petitioner on the basis of the secret information, which was qua illegal arms. It is submitted that the petitioner was illegally arrested and the contraband was also planted on him. It is submitted that only in order to implicate the petitioner, commercial quantity of heroin i.e. 265 grams, was alleged to have been recovered from him. It is further submitted that though the petitioner is falsely implicated in four other cases, however, he is on bail in those cases. It is submitted that the petitioner is behind bars since the date of his arrest i.e. 12.12.2023, however, the prosecution has not examined even a single witness till date. He, thus, submits that in the overall facts and circumstances of the present case, the petitioner deserves to be granted bail.

4. Learned State counsel has opposed the submissions made by counsel for the petitioner. He has submitted that the petitioner was arrested on spot and illegal arm and contraband weighing 265 grams of heroin was recovered from him, which is a commercial quantity and thus, provisions of Section 37 of the NDPS Act are attracted in the present case. On instructions, he submits that the petitioner is involved in four other cases. He



has also produced the custody certificate of the petitioner. It is submitted that challan is presented and charges are framed, however, out of total 14 prosecution witnesses, none has been examined.

5. After hearing counsel for the parties and perusing the record, it is apparent that the FIR has been registered on the basis of the secret information and illegal arms and narcotic substance were recovered from him. Though the petitioner is involved in four other cases, however, he is on bail in those cases. Out of total 14 prosecution witnesses, no witness has been examined as on date. As per statutory provisions of the NDPS Act, commercial quantity of heroin is 250 grams, whereas, 265 grams of heroin was recovered from the petitioner, which is marginally above from the commercial quantity.

6. As held by the Hon'ble Supreme Court in ***Mohd Muslim @ Hussain Vs. State (NCT of Delhi), 2023 LiveLaw(SC)260***, this Court is of the opinion that the case of the petitioner is covered by the ratio laid down by the Hon'ble Supreme Court. In the abovesaid case Hon'ble Supreme Court expressed its views as under:-

19. A plain and literal interpretation of the conditions under Section 37 (i.e., that Court should be satisfied that the accused is not guilty and would not commit any offence) would effectively exclude grant of bail altogether, resulting in punitive detention and unsanctioned preventive detention as well. Therefore, the only manner in which such special conditions as enacted under Section 37 can be considered within constitutional parameters is where the court is reasonably satisfied on a prima facie look at the material on record (whenever the bail application is made) that the accused is not guilty. Any other interpretation, would result in complete denial of the bail to a person accused of



offences such as those enacted under Section 37 of the NDPS Act.

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21it would be important to reflect that laws which impose stringent conditions for grant of bail, may be necessary in public interest; yet, if trials are not concluded in time, the injustice wrecked on the individual is immeasurable.

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23. There is a further danger of the prisoner turning to crime, “as crime not only turns admirable, but the more professional the crime, more honour is paid to the criminal”²² (also see Donald Clemmer’s ‘The Prison Community’ published in 1940²³). Incarceration has further deleterious effects - where the accused belongs to the weakest economic strata: immediate loss of livelihood, and in several cases, scattering of families as well as loss of family bonds and alienation from society. The courts therefore, have to be sensitive to these aspects (because in the event of an acquittal, the loss to the accused is irreparable), and ensure that trials – especially in cases, where special laws enact stringent provisions, are taken up and concluded speedily.'

7. The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. This Court would refrain itself from commenting anything on the merits of the case. The trial of the case will take sufficient long time. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail to the petitioner.

8. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

9. Nothing said herein shall be treated as an expression of opinion
on the merits of the case.

		(RAJESH BHARDWAJ)
11.12.2024		JUDGE
sharmila	Whether Speaking/Reasoned :	Yes/No
	Whether Reportable :	Yes/No