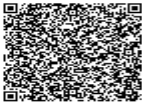


2024:PHHC:116465



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

226

CRM M-42551 of 2024
Date of Decision: 05.09.2024

Shagandeep Singh		...Petitioner
	Versus	
State of Punjab		... Respondent

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

Present : Mr. Manpreet Singh, 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 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 with a prayer to grant a regular bail in case FIR No.0173 dated13.09.2019 registered under Sections 21, 61 and 85 of the NDPS Act at Police Station Kotwali Batinda, District Bathinda.
2. Learned counsel for the petitioner contends that the petitioner has been falsely involved in the present case and the police had planted a recovery of 08 grams of heroin on the petitioner. He further contends that in the present case, the mandatory provisions relating to search and seizure were not followed by the police. The petitioner was initially arrested on 13.09.2019 and was allowed the concession of bail by the Special Court, Bathinda on 20.01.2019 vide

order (Anenxure P-2). Later on, the petitioner was declared as proclaimed person on 26.02.2024. However, now the petitioner has been arrested on 06.05.2024. Learned counsel further submits that only 06 witnesses out of total 10 witnesses have been examined so far and the custody will not serve any meaningful purpose.

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 the petitioner was declared as proclaimed person and he may again evade the process of law. Thus, the petition deserves to be dismissed by this Court.

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

5. From the custody certificate filed by the learned State counsel, it is apparent that the petitioner has undergone more than 07 months of custody. Further, the quantity of heroin recovered from the petitioner falls within the ambit of “non-commercial quantity”. Thus, the bar contained under Section 37 of the NDPS Act shall not apply to the facts of the present case. The petitioner has suffered a long custody and no useful purpose shall be served by keeping the petitioner behind the bars.

6. 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 and 3rd 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 and 3rd 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.

05.09.2024
amit rana

(N.S.SHEKHAWAT)
JUDGE

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