

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

102

CRM-M-54722-2023
Date of decision : 10.01.2024

Dilbagh Masih @ Bagga Petitioner

versus

State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Manoj R. Sharma, Advocate
for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

PANKAJ JAIN, J. (Oral)

1. Prayer is for grant of pre-arrest bail in FIR No.116 dated 25.08.2023, registered for the offences punishable under Sections 21, 29 and 61 of NDPS Act, 1985 at Police Station Shri Hargobindpur, Police District Batala, District Gurdaspur.
2. As per the allegations levelled in the FIR, the petitioner has been implicated by co-accused Gurpreet Singh @ Gopi, who was arrested with 10 gms of heroin. As per the disclosure alleged to have been suffered by aforesaid Gurpreet Singh @ Gopi, it is the petitioner who is stated to be the source of contraband. As per the State counsel, the petitioner is facing two more cases under the NDPS Act.
3. As per the status report filed by State counsel on advance notice, it is being claimed that the petitioner is a habitual offender. The cases being faced by the petitioner have been tabulated as under:-

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Sr. No.	Case detail	Present status
1.	FIR No.142 dated 04.12.2004 under section 457, 380 IPC Police Station Sri Hargobindpur	Acquitted on 07.11.2021
2.	FIR No.118 dated 13.10.2013 under section 22, 61, 85 NDPS Act, PS Sri Hargobindpur	Convicted 26.10.2017 (Recovered 320 grams intoxicant powder)
3.	FIR No.67 dated 26.04.2021 under section 22, 61, 85 NDPS Act, PS Sri Hargobindpur	Under trial (150 intoxicant tablets)
4.	FIR No.59 dated 6.5.2023 under section 452, 427, 323, 34 IPC PS Sri Hargobindpur	Under investigation

4. As per the above table, the petitioner is facing another case under NDPS Act, apart from one conviction earned by him under the NDPS Act.

5. Counsel for the petitioner has relied upon para 6 of the order dated 14.12.2023 passed by the Apex Court in **SLP (Cri.) No.12601 of 2023**, titled as ‘**Parwinder Singh @ Parminder Kumar @ Vicky vs. State of Punjab**’, to submit that the petitioner needs to be protected to enable him to surrender before the Court. The argument raised is misconceived.

6. As per the abovesaid order dated 14.12.2023, rather the Apex Court has endorsed the view taken by Coordinate Bench that a person who is repeated offender, does not deserve grant of pre-arrest bail. The concession given to the accused in the said case was in the peculiar facts and circumstances of that case which have been well recorded in the order. The circumstances were that the petitioner therein was granted interim protection against arrest on 02.12.2022. Considering the aforesaid fact, the Apex Court allowed him three weeks’ to comply for regular bail.

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7. In view of above, the order relied upon by the counsel cannot be read to enure any benefit to the petitioner in the present case.
8. Resultantly, the present petition is dismissed.
9. However, at this state, counsel for the petitioner submits that the petitioner would surrender before the concerned Court and it be directed that his bail plea be decided expeditiously. This Court is quite sanguine that in case the petitioner surrenders and applies for bail, the same shall be decided expeditiously by the concerned Court strictly, in accordance with law.
10. Ordered accordingly.

(PANKAJ JAIN)
JUDGE

10.01.2024
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No