

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-57613-2023 (O&M)

Date of Decision: 26.02.2024

Amritpal Singh @ Jinda ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Kanwaljeet Singh Brar, Advocate, for the petitioner.

Mr. Vinay Kumar Malhotra, DAG, Punjab,
assisted by ASI Gurmeet Singh.

FIR No.	Dated	Police Station	Section/s
149	04.05.2022	P.S. City Faridkot, District Faridkot	Section 21(c) of the NDPS Act (Section 29 of the NDPS Act added later on)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks grant of regular bail in respect of aforementioned FIR.
2. As per the case of prosecution, on 04.05.2022, a secret information was received by the police at about 01.00 am (early morning) to the effect that Shivam, Ravi, Deepak alias Gutriwala, Baljeet Singh, Heera Singh, Amritpal Singh @ Jinda (petitioner) and Pardeep Kumar @ Bablu indulged in sale of intoxicant substances. ASI Harcharan Singh was able to apprehend the said 7 persons with the help of his companions. One of the said 7 persons threw a transparent polythene bag on the ground which

could be seen with the lights of the vehicle. The said polythene bag was found to contain 300 grams of '*Heroin*'. Upon personal search, some amount was also recovered from the accused.

3. Learned counsel for the petitioner submits that as many as 7 persons have been roped in on the basis of allegation of recovery of 300 grams of '*Heroin*' whereas none of the said 7 accused can be said to be in possession of the said contraband, as it was not recovered from anybody's physical possession. It has further been submitted that the falsity of the case of prosecution would be evident from the fact that an absolutely identically situated co-accused namely Shivam, who is also named in the FIR and is alleged to have been arrested with the petitioner and co-accused was given a clean chit on the very next date i.e. on 05.05.2022. Learned counsel has submitted that since identically situated co-accused, namely, Deepak @ Gutriwala and Ravi Kumar have already been granted bail by this Court, the petitioner also deserves the same concession on grounds of parity.
4. Opposing the petition, learned State counsel submitted that since the petitioner along with co-accused was caught red-handed while all of them were found in collective possession of 300 grams of '*Heroin*', the complicity of the petitioner is clearly evident. It has further been submitted that the petitioner happens to be involved in 1 more case. Learned State counsel has passed on the custody certificate indicating that the petitioner as on date has been behind bars since the last about 1

year, 9 months and 24 days. It has also been informed that as on date none out of the cited 22 PWs has been examined.

5. This Court has considered the rival submissions addressed before this Court.
6. While the allegations are very specific in the FIR and all the seven persons have been named therein, but the possession of the contraband is not specifically attributed to any of the seven accused and the polythene bag is stated to have been thrown on the ground by one of the accused. It would be debatable as to whether the petitioner can be said to be in conscious possession of the said contraband.
7. Still further, this Court finds that the police on the very next day gave a clean chit to co-accused Shivam, who was absolutely identically situated and had been arrested along with the petitioner and other co-accused under similar circumstances. This Court further finds that since identically situated co-accused, namely, Deepak @ Gutriwala and Ravi have already been granted bail by this Court vide orders dated 15.01.2024 passed in CRM-M-691-2024 and 29.01.2024 passed in CRM-M-3411-2024, the petitioner also deserves the same concession on grounds of parity. As such, under the given circumstances, the petitioner can be extended the benefit of bail particularly bearing in mind that conclusion of trial is likely to consume time inasmuch none out of cited 22 PWs has been examined till date. In these circumstances, further detention of the petitioner is not justified. The petition, as such, is accepted and the petitioner is ordered to be released on bail subject to his

furnishing bail bonds to the satisfaction of learned trial Court/Chief
Judicial Magistrate/Duty Magistrate concerned.

8. It is clarified that the aforesaid order shall enure offences under Sections
22(b), 22(c) & 27(b) of the NDPS Act as well.

26.02.2024

Vimal

(GURVINDER SINGH GILL)
JUDGE

Whether speaking/reasoned: **Yes/No**

Whether reportable: **Yes/No**