

S. No.226

2024:PHHC:036983

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

CRM-M-61400 of 2023

Date of Decision:14.03.2024

Gurdev Singh @ Sukhdev Singh

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Gagandeep Singh, Advocate for
Mr. Arshdeep Singh Brar, Advocate
for the petitioner.

Mr. Amandeep Singh, DAG, Punjab.

DEEPAK GUPTA, J. (Oral)

Status report by way of affidavit of Shri Ravinder Singh, PPS, Deputy Superintendent of Police (City), Moga, District Moga has been filed on behalf of the respondent- State, along with the custody certificate.

By way of present petition filed under Section 439 Cr.P.C., petitioner prays for grant of regular bail in case FIR No.183 dated 16.10.2021 registered under Section 18, 29 (Act No.61 of 1985) of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') at Police Station City Moga, District Moga.

As per prosecution allegations, 24 Kgs of Opium along with drug money of ₹4 lakhs was recovered from the possession of co-accused Gurpreet Singh alias Rimpi on 16.10.2021. During interrogation, said Gurpreet Singh alias Rimpi nominated one Sanjeev Kumar from whom he had purchased the contraband. He also disclosed that he had to deliver the contraband to the petitioner.

Learned counsel for the petitioner contends that the petitioner has been falsely implicated; that no recovery was effected from him; that he is in custody for the last 02 years 04 months and 23 days and that the trial may take time to conclude, so he be allowed bail.

Learned State Counsel has opposed the bail petition by pointing out that it is the third petition as the first petition was dismissed on merits by this Court vide order dated 28.09.2022 passed in CRM-M-50130 of 2021 (O&M) (Annexure P.6) whereas second petition was dismissed as withdrawn on 24.08.2023 passed in CRM-M-58460 of 2022 (Annexure P.7).

However, on instructions from HC Manjinder Singh, it is informed by learned State Counsel that out of 17 witnesses cited by the prosecution, only 07 have been examined. The custody certificate also reveals that the petitioner is in custody for the last 02 years 04 months and 23 days and as per the custody certificate, he is involved in two more cases.

However, learned State Counsel has drawn attention towards the status report as per which petitioner is involved in seven other cases out of which he was convicted in one case which was registered way back in 1994. Result of four of the cases has not been mentioned whereas in two cases, petitioner is stated to be under-trial.

It is no doubt true that earlier bail petition of the petitioner was dismissed by this Court on 28.09.2022 but that was more than 01 year and 05 months back. Eversince then, only 07 witnesses have been examined out of 17. Now custody period of the petitioner is 02 years 04 months and 23 days. It is admitted position that no recovery has been effected from the petitioner, as far as the present case is concerned and, therefore, the involvement of the petitioner

in other cases cannot be a bar under Section 37 of the NDPS Act to decline bail to him in this case.

Having regard to all the afore-said facts and circumstances of the case, but without commenting anything on the merits of the case, present petition is allowed. Petitioner is admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court/ Duty Magistrate concerned, on usual terms and conditions.

March 14, 2024
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(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No