



CRM-M-62674-2024

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(209) IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-62674-2024  
Date of Decision: 18.12.2024

SUSHIL

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Monty Goyal, Advocate  
for the petitioner.

Mr. A.S. Chaudhary, Addl. A.G., Haryana.  
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JASJIT SINGH BEDI, J.

The prayer in this 3<sup>rd</sup> petition under Section 483 of BNSS, 2023 is for the grant of regular bail in case bearing FIR No.0285 dated 31.03.2023 registered under Sections 21(C), (27(A), 61 of NDPS Act, 1985 and Section 14 of Foreigners Act, 1946 at Police Station Hisar Sadar, District Hisar.

2. The brief facts of the case are that secret information was received that Sushil (petitioner) son of Atma Ram and Saroj (granted bail vide order dated 30.01.2024 Annexure P-2) daughter of Mallu Ram who were in the business of selling intoxicating substances such as heroin/Chitta would be travelling on their motorcycle towards Adampur from the Hisar Bus Stand. If a barricading was set up, they could be apprehended.

Based on the aforementioned information, a barricade was set up and the motorcycle was stopped. The rider of the motorcycle disclosed his

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name as Sushil and got recovered 400 grams of heroin. The pillion rider disclosed her name as Saroj and got recovered 100 grams of heroin.

The arrested accused disclosed that they had purchased the contraband from Franklin (granted bail vide order dated 06.03.2024 Annexure P-3)

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. There was a violation of the mandatory provisions of the NDPS Act regarding search and seizure. Co-accused Saroj and Franklin had been granted the concession of bail. As the petitioner was in custody since 31.03.2023 but none of the 15 prosecution witnesses had been examined so far, the Trial of the present case was not likely to be concluded anytime soon and therefore, he was entitled to the concession of bail.

4. On the other hand, the learned State counsel contends that Saroj had been granted the concession of bail as 100 grams of heroin had been recovered from her. Franklin had been granted the concession of bail because he had been named in the disclosure statement of the arrested accused. The case of the petitioner was on a different footing. The recovery from him was of 400 grams of heroin which was a commercial quantity. Further, he was an accused in two other cases under the NDPS Act arising out of FIR No.333/2021 dated 18.09.2021 U/s 21B/61/85 NDPS Act, P.S. Adampur, Hisar and FIR No.357/2022 U/s 21/29/61/85 NDPS Act, P.S. Adampur, Hisar. Therefore, a satisfaction under Section 37 of the NDPS Act could not be



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recorded. Therefore, the petitioner was not entitled to the concession of bail moreso when the instant petition was the 3<sup>rd</sup> bail application of the petitioner, the last one having been withdrawn as recently as on 04.10.2024 (Annexure P-6) and there being no significant change in circumstances after his last bail application came to be withdrawn.

5. I have heard the learned counsel for the parties.
6. This is the 3<sup>rd</sup> bail application on behalf of the petitioner. The details of his earlier bail applications are as under:-

| Sr. No. | Bail Application | Date of Decision                     |
|---------|------------------|--------------------------------------|
| 1.      | CRM-M-16365-2024 | Dismissed as withdrawn on 09.04.2024 |
| 2.      | CRM-M-48191-2024 | Dismissed as withdrawn on 04.10.2024 |

7. The details of FIRs registered against the petitioner are as under:-

| Sr. No. | FIR Nos. and date                | Sections             | Police Station      |
|---------|----------------------------------|----------------------|---------------------|
| 1.      | FIR No.333/2021 dated 18.09.2021 | 21B/61/85 NDPS Act   | P.S. Adampur, Hisar |
| 2.      | FIR No.357/2022                  | 21/29/61/85 NDPS Act | P.S. Adampur, Hisar |

8. Apparently, the petitioner is a serial offender with 02 other cases registered against him under the NDPS Act. No change in circumstances for grant of bail have been pointed out by the counsel for the petitioner after the 2<sup>nd</sup> bail application of the petitioner came to be argued and withdrawn as recently as on 04.10.2024 (Annexure P-6).



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9. This Court in the case of **Soni Singh @ Chamkaur Singh Versus State of Punjab, CRM-M-31645-2022, decided on 20.10.2022**, held as under:-

*“Admittedly, the petitioner in the present case is named in the disclosure statement of the arrested accused. Subsequently thereto 3Kgs of Poppy Husk was recovered at his instance which is a non commercial quantity. It may be relevant to mention here that limitations to the grant of bail under Section 37 of the NDPS Act are in addition to those prescribed under Cr.PC or any other law inforce on the grant of bail as has been set out by the Hon'ble Supreme Court in Satpal Singh Vs. State of Punjab 2018(5) RCR (Criminal) 152. In the present case, the petitioner is involved in two other cases under the NDPS Act. Thus, as he is a habitual offender, he is not entitled to the grant of bail even under Section 439 Cr.PC keeping in view his antecedents. Even otherwise, assuming that the rigors of Section 37 of the NDPS Act did not apply to the petitioner, that by itself would not ipso facto lead to the grant of bail to the petitioner.*

*In view of the above discussion, I find no merit in the present petition and the same is therefore dismissed.”*

10. Keeping in view the allegations levelled against the petitioner as well as his antecedents, the satisfaction under Section 37 of the NDPS Act that he has not committed an offence and is not likely to commit one in the future cannot be recorded.

11. In view of the above discussion, I do not deem it appropriate to grant him the concession of bail and therefore, the present petition stands dismissed.



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12. However, the Trial Court is directed to conclude the Trial as expeditiously as possible but in any case not later than 06 months from the next date of hearing fixed before it.

13. A copy of this order be sent to the Sr. Superintendent of Police, Hisar who shall ensure that all the official PWs appear promptly before the Trial Court on the dates fixed for recording of prosecution evidence.

(JASJIT SINGH BEDI)  
JUDGE

18.12.2024

JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No