



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

207-1

CRM-M-32193-2024 (O&M)

Date of Decision: 15.02.2025

Akashdeep Singh @ Akash

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

PRESENT: Mr. Ankit Kharbanda, Advocate for the petitioner.

Mr. Mohit Kapoor, Sr. D.A.G., Punjab,
assisted by SI Harpal Singh.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (*for short*, '*Cr.P.C.*'), for grant of bail pending trial to the petitioner in FIR No.0048 dated 20.03.2024, under Sections 21(c), 25 & 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short*, '*NSPS Act*') registered at Police Station Special Task Force, District S.A.S. Nagar (Mohali).

2. Allegations are that 350 grams of Heroin (commercial quantity) was recovered from the petitioner and other co-accused.

3. Contends that as per prosecution case itself, the alleged contraband, i.e. 350 grams of Heroin, was recovered from the tool-box of motorcycle bearing Registration No.PB-02-EQ-0612, being driven by co-accused Vaneet Kumar; whereas, co-accused Deepak Singh was pillion



rider. Further contends that petitioner was riding another motorcycle bearing No.PB14-D-1821 and no recovery was effected from the petitioner or from his motorcycle. Also contends that petitioner is in custody for the last about 11 months; charges already framed on 06.07.2024 and out of 15 prosecution witnesses, only 05 have been examined till date; thus, trial is likely to take sufficient long time.

4. *Per contra*, learned State counsel, on instructions, is not able to controvert the above factual position, but opposed the prayer on the ground that petitioner's name figured in the secret information and he was following the co-accused on his motorcycle.

5. Heard both sides and perused the paper-book.

6. There is no quarrel that as per the prosecution case itself, the alleged contraband was recovered from the tool-box of motorcycle bearing Registration No.PB-02-EQ-0612, being driven by co-accused Vaneet Kumar; whereas, co-accused Deepak Singh was the pillion rider. Still further, there is no recovery effected from the petitioner; therefore, in such a scenario, it would be debatable during trial as to whether petitioner was in any manner connected with the recovery of alleged contraband. Be that as it may, at this stage, it is very difficult to comprehend that petitioner was in conscious possession of the alleged contraband.

7. Thus, in such a scenario, there is no hesitation to record the "Twin Test" satisfaction in favour of the petitioner as per Section 37(1)(ii) of the NDPS Act in the following manner:-

- (i) Petitioner is, *prima facie*, not found to have been in conscious possession of the alleged contraband; thus, same being a debatable



question, would certainly weigh in his favour that he is not guilty of commission of the crime, at this stage.

- (ii) After registration of the FIR in question, petitioner is not found to be involved in any case under the NDPS Act.

8. Needless to say that above “Twin Test” satisfaction has been recorded only for the purpose of bail application and same be not treated as an opinion on pending trial.

9. It is also not in dispute that petitioner is in custody for the last about 11 months and out of total 15 prosecution witnesses, only 05 have been examined till date; thus, conclusion of trial is likely to take sufficient long time.

10. Resultantly, there is no option, except to allow the petition.

11. Consequently, petition is allowed. Petitioner is ordered to be released on bail in this case on his furnishing bail bonds and surety bonds to the satisfaction of learned Special Court/Duty Magistrate concerned.

12. Above observations be not construed as an expression of opinion on the merits of the case, in any manner.

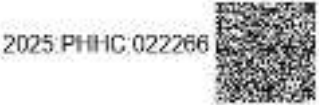
13. It is clarified that in case there is recurrence or any misuse of concession of bail on the part of the petitioner, State would be at liberty to move an appropriate application for recalling of this order.

Pending application(s), if any, shall also stand disposed off.

15.02.2025

atulsethi

**(MAHABIR SINGH SINDHU)
JUDGE**



<i>Whether speaking/ reasoned</i>	:	Yes	/	No
<i>Whether reportable</i>	:	Yes	/	No