



222

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

CRM-M-50588-2024

Date of decision : 29.01.2025

Shavan Kumar @ Savan Kumar @ Saman Kumar**.....Petitioner****Versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Mr. Akun Sheemar, Advocate
for the petitioner.

Mr. J.S. Arora, D.A.G., Punjab.

RAJESH BHARDWAJ, J. (Oral)

1. Petitioner has approached this Court by way of present petition praying for granting him regular bail in case FIR No.63 dated 28.06.2024, under Section 21 of NDPS Act 1985 (Section 29 of NDPS Act added later on) registered at Police Station Division 2, District Police Commissionerate Jalandhar.

2. Succinctly the facts of the case are that the police party while on patrolling on 28.06.2024 spotted two young persons coming on foot from Chik Chik Chowk side. On seeking the police, they got perplexed and turned back in panic. They threw away the polythene bags from their pockets on seeing the police. On suspicion, they were stopped and on asking, they disclosed their names as Mewa Singh son of Puran Singh and Gurpreet Singh @ Gopi son of Jarnail Singh. The polythene bags thrown by them were checked and 50 grams of heroin was found in each polythene bag. Both the accused had failed to produce any licence regarding the conscious possession of the same and they were arrested on the spot. On registration of the FIR, the investigation commenced. During



the investigation, Mewa Singh made a disclosure statement on 01.07.2024 wherein the complicity of the co-accused, namely, Hans Raj was made. On the interrogation of Hans Raj, he made a disclosure statement on 09.07.2024 wherein it was specifically disclosed that the petitioner, namely, Shavan Kumar @ Savan Kumar @ Saman Kumar is also involved in selling the contraband and the contraband recovered from Mewa Singh and Gurpreet Singh @ Gopi was supplied by Gurlal Singh and Shavan Kumar (petitioner). Thus, the petitioner and Gurlal Singh were also arrayed as an accused in the present case and a raid was conducted at their place on 09.07.2024. On the search, 100 grams of heroin was recovered from the petitioner and 200 grams of heroin was recovered from Gurlal Singh. The samples taken were sent to the FSL and the petitioner was arrested on the spot on 09.07.2024. The petitioner approached the Court of learned Judge, Special Court, Jalandhar praying for the grant of bail. However after hearing both the sides finding no merit in the same, the learned Judge, Special Court, Jalandhar declined the petition filed by the petitioner vide his order dated 23.09.2024. Hence being aggrieved the petitioner is before this Court by way of filing the present petition praying for the grant of regular bail.

3. Learned counsel for the petitioner has vehemently contended that neither the petitioner has been named in the FIR nor there is any recovery made from him. He has submitted that rather it was the co-accused, Mewa Singh and Gurpreet Singh @ Gopi, from whom total 100 grams of Heroin was recovered by the police on 28.06.2024. He has submitted that it is on the disclosure statement made by Mewa Singh, the co-accused Hans Raj was nominated and it is on the disclosure statement of Hans Raj on 09.07.2024, the petitioner was arrayed as an accused in the



present case. He has submitted that from the petitioner, the alleged recovery of 100 grams of Heroin was effected, which is a non commercial quantity. He has submitted that the petitioner has no criminal antecedents and the case has been falsely planted upon him. He has further submitted that the disclosure statement even itself is not an admissible evidence. He has submitted that the petitioner is behind bars since 09.07.2024, challan is presented and the charges are also framed. He further submits that the co-accused, namely, Gurlal Singh has already been granted regular bail by this Court vide order dated 16.01.2025 passed in CRM-M-51969-2024 He has thus submitted that in the facts and circumstances, the petitioner deserves to be granted bail.

4. *Per contra*, learned counsel for the State has opposed the submissions made by counsel for the petitioner. He has submitted that 200 grams of Heroin recovered from co-accused, Mewa Singh and Gurpreet Singh @ Gopi was also supplied by the petitioner and thereafter 100 grams of heroin was recovered from his own conscious possession. He has submitted that the total recovery effected from the petitioner is a commercial quantity. He has produced on record custody certificate of the petitioner today in the Court and the same is taken on record. He has apprised the Court that the investigation in the present case is complete and charges are also framed. He has not denied the fact that the co-accused of the petitioner namely, Gurlal Singh, has already been allowed bail by this Court.

5. Heard.

6. After hearing learned counsel for the parties and perusing the record, it is apparent that the petitioner is behind bars since 09.07.2024.



Name of the petitioner has surfaced in the present case on the basis of disclosure statement made by co-accused, Hans Raj. From the conscious possession of the petitioner, the alleged recovery of 100 grams of heroin was made and whether the recovery effected from the petitioner is commercial or non commercial would be a subject matter of the trial Court to be assessed after weighing the evidence led before the trial Court. Custody certificate produced by the learned State counsel would show that the petitioner is not involved in any other case.

7. The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court.

8. The similarly situated co-accused, namely, Gurlal Singh, has already been granted bail by this Court vide order dated 16.01.2025 passed in CRM-M-51969-2024. This Court would refrain itself from commenting anything on the merits of the case. Keeping in view the arguments raised by both the sides and perusing the record, the Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for the grant of bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(RAJESH BHARDWAJ)
JUDGE

29.01.2025
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No