

2025:PHHC:005005



S. No.206

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

CRM-M-39112 of 2024

Date of Decision:15.01.2025

Boota Singh

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Lakshay Bector, Advocate for the petitioner.

Mr. Surya Kumar, AAG, Punjab.

DEEPAK GUPTA, J. (Oral)

By way of present petition filed under Section 439 Cr.P.C., petitioner prays for grant of regular bail in case FIR No.69 dated 15.04.2023 registered under Sections 21, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') at Police Station City Jagraon, District Ludhiana.

2. This is his second petition. Earlier petition bearing CRM-M-59515 of 2023 filed by the petitioner was dismissed as withdrawn vide order dated 16.04.2024 (Annexure P.2).

3. As per the allegations, on the basis of secret information, raid was conducted and petitioner was apprehended with 257 grams of heroin which falls in the commercial category as threshold for commercial category is 250 grams.

4. It is contended by learned counsel that the petitioner has been falsely implicated; that he is in custody for the last more than 01 year and 08 months and not even a single witnesses has been examined so far and so, trial is likely to take long time to conclude.

5. Opposing the bail petition, learned State Counsel points out that the petitioner is a habitual offender inasmuch as he is facing trial in two more cases under the NDPS Act and was earlier convicted in two other cases both under NDPS Act as per the custody certificate. However, it is conceded by learned State Counsel that out of 15 witnesses cited by the prosecution, not even a single witness has been examined so far.



6. The custody certificate indicates that the petitioner is in custody for the last 01 year 08 months and 27 days. He is undertrial in two cases bearing FIR No.111 dated 19.06.2021 registered under Sections 22, 29 (Act No.61 of 1985) of the NDPS Act at Police Station City Jagraon; and FIR No.200 dated 02.10.2021 registered under Sections 22 (Act No.61 of 1985) of the NDPS Act at Police Station City Jagraon. It is informed by learned counsel for the petitioner that the petitioner is on bail in both the afore-said cases. It is further informed by learned counsel that in FIR No.111 dated 19.06.2021, the petitioner was apprehended on the basis of disclosure statement of the co-accused. It is also informed that case FIR No.200 dated 02.10.2021, pertains to non-commercial category.

7. As far as conviction is concerned, petitioner was convicted in case FIR No.59 dated 31.03.2019 registered under Section 21 (Act No.61 of 1985) of the NDPS Act at Police Station City Jagraon and he was sentenced to undergo the sentence for the period already undergone by him. He was released after undergoing one month's sentence. In another FIR No.27 dated 28.01.2023 registered under Section 21 of the NDPS Act at Police Station City Jagraon, he was released after paying fine and undergoing sentence for two months. Learned counsel for the petitioner submits that in both the cases, the recovery was of small quantity.

8. Having regard to the above facts and circumstances, particularly the custody period of the petitioner to be 01 year and approximately 09 months and the fact that not even a single witness has been examined, which indicates that trial is likely to take long time to conclude, the mere fact that recovery from the petitioner falls in commercial category, which is marginally higher than the commercial category, cannot be a ground to decline bail, as rigors of Section 37 of the NDPS Act are required to be balanced with Article 21 of the Constitutions of India. As such, the present petition is accepted and the petitioner is admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court/ Duty Magistrate, on usual terms and conditions.

January 15, 2025
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(DEEPAK GUPTA)
JUDGE

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