

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-11393-2018

Date of decision: 03.04.2018

Gurlal Singh

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. S.K. Aggarwal, Advocate
for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.103 dated 21.08.2017 under Section 15 of NDPS Act, registered at Police Station Siwan, District Kaithal.

Learned counsel for the petitioner submits that the petitioner is in judicial lockup since 21.08.2017 and is not involved in any other case. It is further submitted that the investigation is complete, challan has already been presented and no prosecution witness has been examined so far. Counsel for the petitioner further submits that co-accused of the petitioner namely Gurmeet Singh has been granted the concession of regular bail vide order dated 07.03.2018 passed in CRM-M-3262-2018. The operative part of the order dated 07.03.2018 is reproduced as under: -

“Counsel for the petitioner has further argued that the total

*contraband recovered is of 52 Kgs. which is marginally higher than the commercial quantity and perusal of the FIR show that while weighing the contraband, the weight of 03 bags in which the same was kept, was also included. In support of his arguments, counsel for the petitioner has relied upon the judgment “**Charanjit Singh @ Phuman vs State of Punjab**”, 2015(27) RCR (Criminal) 883, where this Court has granted the concession of bail after considering the fact that the recovery is of 52 Kgs of poppy husk and the weight of the bags was included while weighing the said contraband.*

*Counsel for the petitioner has also relied upon the judgment passed by this Court “**Manju vs State of Punjab**”, 2015(9) RCR (Criminal) 41 where the recovery of 52 Kgs of poppy husk was effected from 02 bags and considering the fact that it was marginally above the commercial quantity, the accused was granted the concession of bail.*

Counsel for the State, on the other hand, has filed the Custody Certificate today in the Court and opposed the prayer for bail. It is also submitted that the challan has already been presented and the prosecution evidence is yet to start.

Without commenting anything on merits of the case and considering the fact that the petitioner has already been granted the concession of bail in earlier petition i.e. CRM-M No.39771 of 2016 wherein he had primarily shown that he was falsely implicated and subsequently he has filed another petition i.e. CRM-M No.30977 of 2016 praying for proper investigation of the said FIR; the petitioner is in judicial custody since 21.08.2017; the prosecution evidence is yet to start; the notice under Section 50 of the NDPS Act finds mention of FIR number and other details of the case, though, as per the FIR, the information was sent to the police much after effecting the recovery; the recovery effected from the petitioner is marginally higher than the commercial quantity and while weighing the contraband, the weight of the bags were also

included; conclusion of trial is likely to take some time, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial court/Illaqa Magistrate.”

Learned State counsel, on instructions from SI Kehar Singh, has not disputed the fact that the petitioner is not involved in any other case and no prosecution witness has been examined so far.

Without commenting anything on merits of the case, considering the grounds, on which co-accused of the petitioner namely Gurmeet Singh has already been granted the concession of regular bail, as noticed above, present petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail, if the petitioner is found misusing the concession of bail, in any manner.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

03.04.2018

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No