

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

265-A

CRM-M-24932-2019

Date of Decision: 06.11.2019

Suresh Dhanka

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present: Mr. S.S. Kharab, Advocate for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Arun Kumar Tyagi, J.(Oral)

The petitioner has filed present petition under Section 439 of the Cr.P.C. for grant of regular bail to the petitioner in case FIR No.257 dated 04.07.2017 under Sections 15 and 29 of the NDPS Act, 1985 and under Sections 420, 467, 468, 471, 120-B, 34 of the IPC, 1860 registered at Police Station Kundli, District Sonapat.

The petitioner along with co-accused Mukesh Bindal and others has been charge sheeted to face trial for alleged commission of above said offences on the core allegations that on 04.07.2017 recovery of 2140 Kgs of poppy husk was made from vehicle No.MP-44-GA-1168 which was being driven by the petitioner-Suresh while co-accused Mukesh was travelling in that vehicle as representative of the owner of goods.

Learned counsel for the petitioner has argued that the petitioner is innocent victim of frame up case and has been falsely implicated in the above-mentioned case. The petitioner was merely driver on the said vehicle and was transporting the goods loaded without any knowledge as to contents of the bags. The petitioner is not owner of the factory and the

machines installed therein and was not involved in any illegal activities. The petitioner is in custody since 04.07.2017. The petitioner is not involved in any other case under the NDPS Act.

The prayer for bail has been opposed by learned State counsel, who has argued that the petitioner was driving the vehicle which was carrying huge quantity of 2140 kgs. of poppy husk. However, learned State counsel has conceded that the petitioner is not involved in any other case under the NDPS Act.

During the course of arguments, learned Counsel for the petitioner has pointed out and learned State Counsel has conceded that in the present case main accused Mukesh Bindal has been granted interim bail by this Court vide order dated 15.05.2019 passed in CRM-M-4561-2019 and three other co-accused Deepak, Narender Tyagi and Darshrath Jain have been granted regular bail by this Court vide orders dated 09.04.2019, 04.04.2019 and 14.05.2019 passed in CRM-M-8938-2019, CRM-M-47348-2018 and CRM-M-18112-2019 respectively. Co-accused Mukesh also filed CRR-2561-2018 (O&M) challenging the FSL report, on which this Court has ordered that the proceedings may continue but passing of final order shall remain stayed. This Court has also directed that CRR-2561-2018 be listed for hearing after decision of Criminal Appeal No.722 of 2017 (Arising out of SLP (Crl.) No.6092 of 2014 titled 'Hira Singh and another vs. Union of India and another' by Hon'ble Supreme Court of India.

In view of the facts and circumstances of the case, period of custody of the petitioner, the fact that main accused Mukesh Bindal has been granted interim bail and co-accused Deepak, Narender Tyagi and Darshrath Jain have been granted regular bail by this Court as mentioned

above, parity of the case of the petitioner and also the fact that passing of the final order in the case has been stayed by this Court, and conclusion of trial is likely to take long time but without commenting on merits of the case, I am of the considered view that the petitioner deserves the concession of regular bail. Therefore, the present petition is allowed and petitioner Suresh Dhanka is ordered to be released on regular bail on furnishing of bail bonds by him to the satisfaction of the learned trial Court/Chief Judicial Magistrate/Duty Magistrate, Sonapat.

(ARUN KUMAR TYAGI)
JUDGE

06.11.2019

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Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No