

Sr. No.209(2nd case)

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

**CRM-M-8520 of 2020 (O&M)
DATE OF DECISION : 07.09.2020**

Gurdit Singh @ Geetu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Ruhani Chadha, Advocate,
for the petitioner.

Mr. Saurabh Khurana, DAG Punjab.
(Presence marked through video conference)

ARUN MONGA, J. (ORAL)

1. The petitioner is seeking regular bail in FIR No. 158 dated 22.06.2015, registered under Sections 15 and 15(c) of Narcotic Drugs and Psychotropic Substances Act, 1985, Police Station Shahkot, District Jalandhar.
2. Per FIR, on 22.06.2015 a police party received a secret information about unloading of poppy husk from truck No. RJ13GA-3076 and shifting the same in car No. PB02BM-0913 allegedly by Anwar, Balvir Singh, Daljit Singh, Gurdit Singh @ Geetu (petitioner herein) and one Lakhvir Singh. Basis thereof, a raid was conducted. Three persons, namely Anwar, Balvir Singh and Daljit Singh were apprehended at the spot. While two persons, identified by ASI Harjit Singh, as present petitioner and Lakhvir Singh made good their escape from the spot. On search of truck, poppy husk weighing 648 Kgs was recovered. The investigating agency filed

challan against the three accused apprehended on the spot, while two i.e. present petitioner and Lakhvir Singh were got declared as proclaimed offenders.

3. It is relevant to mention here that trial against Anwar, Balvir Singh and Daljit Singh culminated in their conviction vide judgment dated 09.02.2018. Petitioner was later arrested on 22.11.2019 and supplementary challan has been filed against him and co-accused Lakhvir Singh.

4. Learned counsel submits that petitioner was not aware that he was declared a proclaimed offender (on 09.02.2015). Per his information, there is no order passed declaring him proclaimed offender. According to him, nothing was recovered from the petitioner. Identification of petitioner and the co accused, who allegedly ran away from spot, would be established only at the trial. Even test identification parade has not been conducted. In support of his submissions he relies on **Hardip Singh & Ors. Vs. State of Punjab 2020(1) RCR(CrL.) 674** and **Khekh Ram Vs. State of Himachal Pradesh 2018(1) RCR(CrL.) 74**. He further submits that investigation is over, supplementary challan has been filed, but there is no headway in the trial and especially in the pandemic scenario, there is no likelihood of trial being concluded in time.

4. On the other hand, learned State counsel opposes the bail plea. He submits that petitioner is habitual offender and is involved in one more case of similar nature. He further submits that initially in the year- 2016 the petitioner had approached Sessions Court seeking anticipatory bail, but his application was dismissed. Thereafter, the petitioner approached this Court by way of CRM-M-3469 of 2016, which too was dismissed on 16.02.2016, still the petitioner did not submit himself to face trial and was on run for

more than four years. It was only when his arrest was caused in another case, he was arrested and produced in this case as well. He further submits that co-accused of the petitioner have already been convicted by the trial Court. According to him, recovery falls under commercial quantity and Section 37 of NDPS Act is a bar on grant of benefit of regular bail. He, however, admits that investigation is over and presently there is no headway in the trial.

5. The petitioner was not apprehended at the spot. Identity of the petitioner as the person who fled away from the spot, apart from other contentions, would be a moot question at the trial. There is no headway in the trial and is not likely to commence or conclude anytime soon due to covid-19 pandemic, as a result of which Courts are working with restrictions and taking up only urgent matters.

6. Considering the overall scenario and in view of relied cases *ibid*, without commenting on the merits of the case, the petition is allowed. Petitioner shall be released on bail on his furnishing bail bonds and local surety bonds to the satisfaction of concerned Chief Judicial Magistrate/ Duty Magistrate, as the case may be. It is however, made clear that in case the petitioner is found involved in any other case of similar nature, while on bail, the prosecution shall be at liberty to seek cancellation of his bail.

(ARUN MONGA)
JUDGE

September 07, 2020
Jiten

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