

CRM-M-8550-2021 (O&M)
Date of Decision: 03.08.2021.

Surjeet Singh (@ Bagga ...Petitioner

VS.

State of Haryana ...Respondent

Coram : Hon'ble Mr. Justice B.S. Walia.

Present: Mr. Amit Choudhary, Advocate for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

B.S. Walia, J. (VC)

1. Case is being taken up for hearing through Video Conferencing due to Covid-19 pandemic.
2. Prayer in the petition under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.9 dated 08.01.2021, registered under Sections 15-B/27-A, NDPS Act, 1985, at Police Station SadarRatia, District Fatehabad.
3. Learned counsel contends that recovery from the petitioner in the instant case is of 10 kg of poppy husk i.e. non-commercial quantity, on his arrest on 08.01.2021, the petitioner has been in custody ever since said date, investigation is complete, challan has been presented, though charges are yet to be framed, consequentially trial would take long time to conclude, therefore, no useful purpose would be served by keeping the petitioner behind bars.
4. Per contra, learned DAG, Haryana, contends that the petitioner is a habitual offender as apart from the instant case, he is involved in two other cases under the NDPS Act.

5. In response thereto, learned counsel for the petitioner contends that the petitioner was fined Rs.1,000/- in case FIR No.8, dated 19.02.2014, registered under Section 15 NDPS Act, at Police Station Bareta, apart from five months of imprisonment undergone by the petitioner while as an under-trial in a case involving recovery of 10 kg of poppy husk besides he is on bail in the second case i.e. FIR No.149 dated 26.06.2019, registered under Section 15, NDPS Act, at Police Station Lehara, involving recovery of 10 kg of poppy husk and that the sum total of the recovery from the petitioner in all three cases works out to 30 kg poppy husk which is less than the commercial quantity. Learned counsel relies upon the decision of this Court in Nirmal Kaur alias Nimo vs. State of Punjab, CRM-M-20528-2021, decided on 08.07.2021, wherein the petitioner from whom recovery of 10 grams of heroin (non-commercial) was made and who was facing two other cases under the NDPS Act and one under the IPC, was released on bail on account of recovery being of non-commercial quantity.

6. I have considered the submissions of learned counsel for the parties.

7. Admittedly the recovery from the petitioner in the instant case is of 10 kg of poppy husk i.e. non-commercial quantity and out of other two other cases referred to above, the petitioner has already undergone five months of imprisonment as undertrial besides fine of Rs.1,000/- on account of recovery of 10 kg of poppy husk while in the other case i.e.FIR No.149 dated 26.06.2019, registered under Section 15 of the NDPS Act, at Police Station Lehara, involving recovery of 10 kg of poppy husk, the petitioner is

on bail. Though taking into account the past record of the petitioner, I find merit in the argument of learned DAG, Haryana that the petitioner is a habitual offender, however, taking into account the fact that the investigation is complete, challan has been presented, trial is likely to take considerable period of time besides the recovery in all three cases is of non-commercial quantity, the petition for regular bail is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of the learned trial Court/Chief Judicial Magistrate/Illaq Magistrate with the condition that in case the petitioner is involved in any case under the Narcotic Drugs and Psychotropic Substances Act, 1985, irrespective of the quantity of the contraband involved during the period while he is on bail in the instant case, the prosecution would be at liberty to move an application for forthwith cancellation of bail granted to the petitioner in the instant case. This order of regular bail is further subject to the condition that the petitioner is not required in any other case. The petitioner shall also comply with the conditions contained under section 437(3) Cr.P.C. However, nothing stated hereinabove shall be construed as an expression of opinion on the merits of the case.

9. Petition allowed in the aforementioned terms.

(B.S. Walia)
Judge

03.08.2021

'Rajesh'

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