

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-20344-2021

DATE OF DECISION: NOVEMBER 8, 2021

GURJEET SINGH

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. L.S. SEKHON, ADVOCATE FOR THE PETITIONER.
MR. SUKHDEEP SINGH PARMAR, DAG, HARYANA.

MANOJ BAJAJ, J.(ORAL)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No.64 dated 30.4.2015, under Section 15 & 29 NDPS Act, Police Station Cheeka, District Kaithal, who is in custody since his arrest on 24.5.2018.

The allegations contained in the FIR as noticed by Special Judge, Kaithal, in the order dated 23.10.2018, are as under:-

“The brief facts of the prosecution case are that on 30.4.2015, Assistant Sub-Inspector Ram Niwas along with Head Constable Shakti Singh, Head Constable Shishpal Singh, Constable Dharam Pal and Constable Shyam Lal with other police official was present with regard to crime detection duty at Bhiwani Temple, Pehowa road Cheeka. There he received a secret information that a vehicle bearing registration No. HR29R-6808 is coming from Cheeka bus stand, Kaithal road towards old Anand Mandi, Cheeka. Finding this information reliable, a naka was laid. After about 15 minutes, one vehicle of white colour was seen coming

from bus stand Cheeka side. On seeing the police party, the driver of the vehicle stopped the vehicle 50 meters ahead of barricade and ran towards the Cheeka Anaj Mandi side. Efforts were made to apprehend him, but he could not be apprehended. Thereafter, Assistant Sub-Inspector approached the vehicle and apprehended it to be loaded with contraband. Deputy Superintendent of Police was called at the spot. After checking from the back of driver seat one gunny bag was found which was weighed to be 39 kilogram 600 grams poppy husk, one plastic bag was lying in front of conductor seat which was weighed to be 19 kilogram 600 grams and from the dickey two gunny bags and two plastic bags were recovered and same were weighed to be 39 kilogram 600 grams poppy husk each. Thereafter, all three gunny bags and three plastic bags were taken into police possession. On the basis of these allegations the present case was got registered. The investigation was conducted. During investigation of this case, accused Banka Singh and Rajender Kumar were arrested. During their confessional statement, they disclosed about the involvement of present petitioner. They went to the trial and were acquitted. Present accused could not be apprehended and was declared proclaimed offender on 3.9.2015.”

Learned counsel for the petitioner has argued that as per prosecution 200 kgs. of poppy husk was recovered from the vehicle bearing registration No.HR29R-6808, however, at the time of recovery, no one was arrested. He has further submitted that as per prosecution, Banka Singh was driving the vehicle wherein the contraband was contained and the petitioner alongwith Rajinder Kumar were following the co-accused in a separate

vehicle. He has further pointed out that trial in respect of both the co-accused ended in their acquittal through judgement dated 27.3.2018. He has argued that the prosecution has set up a common case against all the accused, but as the charges against two have not been established, therefore, chances of petitioner's conviction are also bleak. He prays for regular bail during the pendency of the trial.

On the other hand, learned counsel for the State assisted by SI Kulvinder Singh has opposed the aforesaid prayer, however, he has not disputed this fact that the other co-accused were acquitted as the evidence connecting the accused with the vehicle used in the crime was found missing as the owner of the vehicle was some other person who was not an accused. He has further pointed out that the petitioner is involved in another case of similar nature, but it is not disputed by him that as per prosecution, the petitioner was not travelling in the said vehicle from which the contraband was recovered.

After hearing learned counsel for the parties, considering the above background, the custody of the petitioner and the fact that the trial is not likely to conclude in near future as only five prosecution witnesses out of total thirty witnesses have been examined, this Court is of the opinion that further detention of the petitioner behind the bars may not be necessary for any useful purpose who is presently confined in judicial custody after his arrest on 24.5.2018.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to his furnishing requisite bail bonds/surety bonds

to the satisfaction of the trial Court concerned.

The petition is allowed.

November 8, 2021
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No
Whether Speaking/Reasoned : Yes/No