

245

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

**CRM-M No.27054 of 2021
Date of Decision:15.09.2021**

BASHER AHMEDPetitioner
Vs
STATE OF PUNJABRespondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Kuldeep V. Singh, Advocate
for the petitioner.

Mr. Amar Ashok Pathak, Addl. A.G., Punjab.

RAJ MOHAN SINGH, J.(Oral)

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.0003 dated 03.01.2021, registered under Section 15 of the NDPS Act at P.S. Hariana, Distt. Hoshiarpur.

The FIR was registered on 03.01.2021 on the allegations that when the police party was on patrolling duty, they saw one canter parked on one side of the road and one car was standing behind this canter with its face toward Hariana. One person was seen unloading the cardboard boxes from the canter and was handing over the same to another person standing near the car and that person was loading the boxes on

the back seat of the car. One person was sitting on the driver seat of the car and another person was sitting on the driver seat of the canter. On seeing the police party, they tried to run away, but they were apprehended by the Police.

During search of the vehicle, 500 kgs. of poppy husk was recovered. The persons apprehended from the spot were identified as driver of the canter namely Swaranjit Singh @ Bitta, Bahadur Singh @ Gora, who was standing at the back side of the canter. The person who was loading the boxes in the car was identified as Virender Singh @ Vicky and the person sitting on the driver seat of the swift car was identified as Kulwinder Singh @ Dhol.

All the persons were issued notices under Section 50 of the NDPS Act, but they reposed faith in the Investigating Officer.

Learned counsel for the petitioner submits that the bail has been declined to the petitioner solely on the ground that he is alleged to be owner of the car. He further refers to the statement of prosecution witness No.15 i.e. Danish, who has not stated anything qua ownership of the car in favour of the petitioner. Petitioner has been nominated on the basis of disclosure statement of co-accused Kulwinder Singh @ Dhol. Co-accused Sital Singh was also nominated on the basis of disclosure statement of Kulwinder Singh @ Dhol. Sital Singh

has been granted anticipatory bail vide order dated 07.04.2021 passed in CRM-M No.4903 of 2021. He was alleged to be owner of the canter.

Learned counsel further submits that during investigation, petitioner Basher Ahmed was apprehended and he made confessional statement that another case was registered against him in the year 2019 and he remained in Ludhiana Jail for 12/13 months. During this period, he came in contact with Sital Singh. After granting bail in September, 2020, he went back to Sri Nagar. Sital Singh contacted him and told him the requirement of 5 quintals of poppy husk by quoting Rs.2000/- per kgs. Thereafter, he came along with the contraband where other co-accused met him. That is how the contraband was ultimately recovered by the Police. The ownership of the petitioner viz-a-viz. car in question would remain debatable as the petitioner was not found to be the registered owner of the vehicle.

Learned State counsel however opposed the bail on the ground that the petitioner is also a member of gang which is operating inter-state. The recovery of 500 kgs. of poppy husk is commercial in nature. Petitioner is not involved in any other case except in one NDPS case in which he is on bail.

The complicity of the petitioner even on the touchstone of conspiracy would be tested on the basis of evidence to be led

by the prosecution. Petitioner is in custody since 07.01.2021. The case is fixed for framing of charges. No prosecution witness has been examined so far. The trial of the case may take some time in its culmination.

Even the prosecution has recorded the statement of Dinesh Latto son of Tareek Ahmed Latto, who has stated that he had purchased the car in question from one Amit Behal and the petitioner thereafter took the car from him on 31.12.2020. The witness has not admitted that he had sold away the car to the petitioner in any manner.

In view of aforesaid facts and circumstances of the case, I deem it appropriate to enlarge the petitioner on regular bail, without adverting anything on merits of the case.

In view of above, petition is allowed. Petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

(RAJ MOHAN SINGH)
JUDGE

September 15, 2021

Atik

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No