

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-23729-2020

Date of Decision: 06.01.2021

Subash Chander @ Subhash Chander

.. Petitioner

Vs.

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. D.S. Virk, Advocate for the petitioner.

Mr. Bhupender Benwial, AAG, Punjab.

...

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.103 dated 26.07.2019 registered under Section 15 NDPS Act, 1985 at Police Station Gidderbaha, District Sri Muktsar Sahib. The petitioner is in custody since his arrest on 25.07.2019.

The above FIR was registered on the basis of secret information, which reads as under:-

*“Today I, ASI along with ASI Harbhagwan Singh 912, Constable Gurdeep Singh 1530/SMS, Constable Manpreet Singh 1493 SMS, and PHG Jagjit Singh 11988 were going on private vehicle towards Bohri, Fakarsar, Ghagga, Karaiwala etc. from Gidderbaha, when the police party reached at Cannal Over Bridge, Village Theri, a special informer informed me that Subhash Chander s/o Dev Raj r/o Villae Theri used to sell the poppy husk and he has brought poppy husk in heavy quantity and has kept in his house, if an immediate raid be conducted at his house, he can be apprehended along with the poppy husk. Information is believable. Above mentioned Subhash chander has committed offence under Section 15/61/85 NDPS Act. Therefore, Ruqa is sent to Police Station for registration of FIR through PHG Jasbir Singh. After registration, the number case may kindly be informed to me. Special*

*reprots may kindly be issued. PCR/SMS may be informed through W/M and for investigation another NGO may sent at the spot. I along with other police officials are going to raid at the house of Subhash Chander.”*

Learned counsel for the petitioner contends that the recovered contraband is marginally above the non-commercial quantity (60 kgs of poppy husk) and after framing of charges on 12.03.2020, no prosecution witness has been examined so far. He contends that the trial is likely to consume considerable time and, therefore, the petitioner be released on regular bail.

The prayer is opposed by learned State counsel on the ground that the quantity recovered from the petitioner is commercial in nature. He has produced the custody certificate of the petitioner to contend that he was previously involved in similar case i.e. FIR No.57 dated 09.03.2005, under Section 18 NDPS Act, 1985, and also two other cases under Excise Act were registered against him. He does not dispute this fact that no prosecution witness has been examined so far.

At this stage, learned counsel for the petitioner submits that in case FIR No.57 dated 09.03.2005, the petitioner stands acquitted and except for the present case, there is no other case of similar nature is pending against him.

After hearing the learned counsel for the parties, this Court finds that the investigation of the case is complete and the trial is yet to commence, therefore, considering the custody period of the petitioner, this Court does not find any reason to decline the prayer, particularly when the prosecution witnesses are the police officials and there is no possibility of their being won over. This Court is cognizant of the fact that the outbreak of pandemic COVID-19 in the region may delay the conclusion of trial,

therefore, the further detention of the petitioner may not serve any useful purpose, who is presently confined in judicial custody.

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/Duty Magistrate Sri Muktsar Sahib.

The petition is allowed.

06.01.2021  
*Jasmine Kaur*

(MANOJ BAJAJ)  
JUDGE

|                           |     |    |
|---------------------------|-----|----|
| Whether speaking/reasoned | Yes | No |
| Whether reportable        | Yes | No |