

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-29129 of 2021 (O&M)

Date of decision:24.09.2021

Jagsir Singh alias Kala

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Mandeep Kumar Dhot, Advocate
for the petitioner.

Mr. Sandeep Singh Deol, DAG, Punjab.

SUVIR SEHGAL, J. (Oral)

Heard through video conferencing.

Instant petition has been filed under Section 439 of Cr.P.C. seeking grant of regular bail to the petitioner in case FIR No.35 dated 29.04.2021 registered for offence under Section 15 of [Narcotic Drugs and Psychotropic Substances Act, 1985](#) (for short “NDPS Act”) at Police Station Cheema, District Sangrur (Annexure P-1).

FIR, Annexure P-1, came to be registered when a truck was intercepted and two bags containing 55 kgs of poppy husk were recovered from its cabin. Satwant Singh alias Kala was driving the truck and Jagsir Singh alias Kala was sitting on the conductor seat. Both of them were apprehended on the spot.

Counsel for the petitioner submits that the petitioner was innocent traveller, who was sitting on the conductor seat of the truck, which was being driven by co-accused Satwant Singh and he has been implicated merely because of his presence. A categorical assertion has been made by counsel that the petitioner is neither the owner of the vehicle nor does he has anything to do with the contraband which has allegedly been recovered. He submits that in any case, recovery effected from the truck is marginally above the maximum limit of non-commercial quantity as prescribed under the NDPS Act. He submits that the petitioner, who has unblemished antecedents, is no longer required for custodial interrogation as the challan has been presented and the petitioner deserves to be released on bail.

Per contra, State counsel upon instructions from SI Mohinderjit Singh, has opposed the petition and submitted that as the contraband falls within the ambit of commercial quantity under the NDPS Act, the bar as contained under Section 37(1)(d) of NDPS Act is attracted. As per his instructions, the challan has been presented on 26.08.2021, though the charge is yet to be framed. He, however, could not deny the fact that the petitioner is not involved in any other criminal case.

I have considered the respective submissions of counsel for the parties.

This Court in ***Rajdev Giri Vs. State of Punjab***, CRM-M-44898-2019, decided on 18.09.2020; ***Rahish Vs. State of Haryana***, CRM-M-36498-2020, decided on 11.11.2020; ***Karambir Vs. State of Haryana***, CRM-M-31820-2019, decided on 28.08.2019; ***Jagjit Singh@ Jagga Gill***

Vs. State of Punjab, CRM-M-41242-2019, decided on 27.02.2020 and *Baljit Kaur @ Baljito Vs. State of Punjab*, CRM-M-12849-2020, decided on 04.06.2020, has ordered release of accused on bail in cases where the alleged recovery is slightly more than the quantity prescribed for commercial category under the Act. Furthermore, it has not been disputed that the petitioner has clean antecedents.

Keeping in view the nature of allegations, gravity of offence, period of incarceration of the petitioner and the fact that the trial is likely to take time to conclude, the petitioner deserves to be released on bail.

Without examining the merits or demerits of the arguments addressed by counsel for the parties, the petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

It is clarified that any observation made hereinabove shall not be construed to be a reflection of opinion on the merits of the case.

September 24, 2021
savita

(SUVIR SEHGAL)
JUDGE

<i>Whether Speaking/Reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>