

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-30045-2021

Date of Decision: 1.12.2021

Venu

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Dheeraj Narula, Advocate,
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

KARAMJIT SINGH, J.

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.166 dated 13.5.2021 registered for the offences punishable under Sections 15 of NDPS Act at Police Station Sadar Dabwali, District Sirsa.

Counsel for the petitioner contended that the petitioner was falsely implicated in this case and that even otherwise, as per prosecution version, 3 gunny bags of poppy husk each weighing 20 kg. were allegedly recovered from a car in which the petitioner was travelling along with Apoorav Sharma (driver) and Ravi Yadav. It is further contended that weight of bags was not excluded by the police while calculating the weight of the alleged contraband. It is further contended that even otherwise, it is a case of recovery of contraband which is marginally above the commercial quantity. Counsel for the petitioner further contended that the petitioner is in custody for the last more than 6 months and is having no criminal history and as such, he is entitled to regular bail. In support of his arguments, he

referred to order of this Court in CRM-M-48748-2019; Jagroop Singh v. State of Punjab decided on 28.1.2020 wherein also, regular bail was granted in a case involving 60 kg. of poppy husk and the accused had undergone 5 months of custody. Counsel for the petitioner also placed reliance on CRM-M-10778-2016; Ranjit Singh v. State of Punjab decided on 8.7.2016 wherein also in a case relating to recovery of 60 kg. of poppy husk from the boot of the car, the accused was granted bail as he had undergone custody for about 6 months period.

The present petition is contested by the learned State counsel who submitted that the present case involves recovery of 60 kg. of poppy husk from the petitioner and thus, comes under commercial quantity of contraband. Learned State counsel prays for dismissal of the present petition.

I have considered the submissions made by the counsel for the parties.

As per custody certificate, the petitioner has already undergone 6 months and 7 days of custody and he is not facing any other trial or proceedings under NDPS Act. As per case of the prosecution, 3 bags of poppy husk each weighing 20 kg. were recovered from the car in which the petitioner was travelling. The aforesaid total weight also include the weight of the bags. So, in this case, the alleged recovery is marginally above than the prescribed for commercial quantity. It is also moot point as to whether the alleged recovery was from the conscious possession of the petitioner. Admittedly, after completion of investigation, challan has been presented in the Court but till date, no witness has been examined from the side of the prosecution. The trial may take considerable long time for its culmination.

So, in terms of the cases cited by the counsel for the petitioner, without expressing any opinion on the merits of the case, I deem it appropriate to enlarge the petitioner on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate.

Petition stands allowed.

December 1, 2021

Paritosh Kumar

**(KARAMJIT SINGH)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No