

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

CRM-M-42733-2021(O&M)
Date of decision:-20.12.2021

Ashok

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Ms.Kanika Ahuja, Advocate
for the petitioner.

Mr.Sharad Aggarwal, AAG, Haryana.

H.S. MADAAN, J. (Oral)

Case taken up through video conferencing.

This third petition for regular bail has been filed by petitioner Ashok, aged about 39 years, resident of village Titoli, District Rohtak, now Sector 13, Panipat, District Panipat, an accused in FIR No.810 dated 30.11.2020, under Sections 15 and 29 of NDPS Act, registered with Police Station City, Thanesar, District Kurukshetra.

Briefly stated, the facts of the case as per the prosecution story are that one Dheeraj was arrested by the police of Police Station City, Thanesar on 30.11.2020 and he was found in possession of 7 kgs. of

poppy-husk. During the course of interrogation, he disclosed that he had purchased the contraband from the present petitioner Ashok. After being nominated, the petitioner was arrested in this case. At the time of his arrest, he was found in possession of 24 kgs. of poppy-husk and in that regard FIR No.651 dated 2.12.2020 for offence under Sections 15 of NDPS Act was registered against him with Police Station Sadar, Thanesar.

The petitioner had approached Judge, Special Court, Kurukshetra seeking regular bail but was unsuccessful inasmuch as his application was dismissed by learned Judge, Special Court, Kurukshetra on 21.9.2021. Thereafter, the petitioner/accused had approached this Court on two earlier occasions by filing petitions for regular bail but could not secure that concession and had rather withdrawn the first two petitions so filed. Now he has come to this Court for the third time craving that he be granted regular bail, which request is being opposed by the State counsel.

I have heard learned counsel for the parties besides going through the records.

In this case no recovery had been effected from the petitioner and he was nominated as supplier of the contraband when his co-accused Dheeraj had been arrested by the police on 30.11.2020 and found in possession 7 kgs. of poppy-husk. Dheeraj is said to have been given concession of bail by Judge, Special Court, Kurukshetra vide order dated 6.1.2021. Copy of that order has been placed on record as Annexure P3. With regard to FIR No.651 dated 2.12.2020 for offence under Section 15 of the NDPS Act, in which the petitioner had been booked, while he was

arrested in this case since he was found to be carrying 24 kgs. of poppy-husk, he has already been granted concession of regular bail by this Court vide order dated 8.3.2021, copy of which is available on the record as Annexure P2. The recovery involved in this case amounts to non-commercial quantity. Therefore, bar of Section 37 of the NDPS Act does not come into play in this case.

As per the custody certificate filed by the State counsel, the petitioner is shown to be involved in cases bearing FIR No.489 of 2.9.2020 under Section 365 IPC, Police Station Shahabad, District Kurukshetra and FIR No.696 dated 9.10.2017, under Sections 279, 336 IPC etc., Police Station Sadar, Nuh, Mewat but he is shown to be on bail in both those cases. In another case bearing FIR No.19 of 2005, under Section 407 IPC, Police Station Kala Amb, Sirmore, he is shown to have been acquitted by the Court. The petitioner is said to be of young age. Though on competition of investigation, challan has been filed against the accused but as per report from the trial Court, the trial is at initial stage and its conclusion is likely to take some time.

Under the facts and circumstances of the case, I am of the view that the petitioner deserves to be granted concession of bail, although on stringent terms and conditions. Therefore, the petition is allowed and the petitioner be admitted to bail during the pendency of the trial, subject to their furnishing bail bonds and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate, Kurukshetra, subject to the following conditions:

- (i) he shall appear in the Court on each and every date of hearing;
- (ii) he shall not give any threat or intimidation to the

- prosecution witnesses;
- (iii) he shall not indulge in any criminal activity;
 - (iv) he shall join the investigation as and when directed by the Investigating Officer;
 - (v) he shall not leave India without prior permission of the Court; and
 - (vi) he shall get his presence marked in the local police station on every Saturday of the week between 11:00 a.m. to 2:00 p.m. so that an eye can be kept on his movements and he is deterred from indulging in any criminal activity.

In addition to that the trial Court may impose any term and condition found suitable to ensure that the petitioner does not abscond and interfere in the trial.

The Court accepting bonds would ensure that surety furnished is local having documentary proof of immovable properties in his name situated within jurisdiction of the Court of the value double the surety amount. Photographs of the surety, attesting witness and the accused be got attached on the bonds and copies of the title deeds be also got attached with endorsement made on the original title deeds with regard to the said person having stood surety for the accused in this case.

In addition to that the trial Court may impose any term and condition found suitable to ensure that the petitioner does not abscond and interfere in the trial.

In case the petitioner violates any term and condition on which the bail has been granted to him, the prosecution would be entitled to apply for cancellation of bail.

20.12.2021
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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned : Yes No

Whether Reportable :	Yes	No
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