

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

(Through video-conferencing)

**CRM-M No.39836 of 2020(O&M)
Date of Decision: 01.10.2021**

Gurvir Singh

.....Petitioner

Vs

State of Punjab

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Manpreet Singh, Advocate
for the petitioner.

Mr.C.L. Pawar, Sr. DAG, Punjab.

RAJ MOHAN SINGH, J.(Oral)

At the very outset, learned counsel for the petitioner submits that due to some typographical omission, offences under Sections 25 and 29 of the NDPS Act could not be incorporated in the head note and prayer clause of the petition. He seeks necessary permission to incorporate the aforesaid offences in the head note and prayer clause of the petition.

Learned State counsel, however, opposed the prayer on the ground that the petitioner has not filed the present petition with correct particulars of the case.

In view of nature of prayer made by the learned counsel

for the petitioner, the prayer is allowed. Offences under Sections 25 and 29 of the NDPS Act are ordered to be incorporated in the head note and prayer clause of the petition.

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.79 dated 06.08.2018 registered under Sections 15, 25 and 29 of the NDPS Act at Police Station Mehna, District Moga.

As per allegations in the FIR, the petitioner along with Dharamjit Singh @ Dharma and Jagdev Singh @ Deban were bringing the poppy husk in the truck, which was being escorted by Shinder Singh and Buta Singh in a car. The truck was being driven by the petitioner from where 180 bags of poppy husk each containing 40 kgs were recovered. Shinder Singh was not arrested from the Spot. Jagdev Singh @ Deban also succeeded in fleeing from the spot. Jagdev Singh @ Deban has been granted regular bail by the High Court vide order dated 09.05.2019 passed in CRM-M No.16994 of 2019.

Learned counsel for the petitioner submits that the petitioner was sitting in the truck being driven by co-accused Dharamjit Singh @ Dharma. Petitioner is not the registered owner of the truck as the registered owner of the truck is co-accused Lehmbur Singh. Petitioner is in custody since 11.08.2018 i.e. for the last 3 years, 1 month and 19 days as on

30.09.2021. Petitioner is not involved in any other case. Learned counsel refers to **CRM-M No.20566 of 2019** titled **Veeru Vs. State of Punjab** decided on 19.11.2019, **CRM-M No.41779 of 2020** titled Gurpreet Singh Vs. State of Punjab decided on 17.12.2020, **CRM-M No.17481 of 2020** titled **Mani Singh @ Maddi Vs. State of Punjab** decided on 22.07.2020 and **CRM-M No.25382 of 2020** titled **Gurbaksh Singh Vs. State of Punjab** decided on 02.09.2020 and submits that by virtue of long incarceration of the petitioner, he is entitled for regular bail *de hors* the nature of the quantity allegedly recovered from him. This is so particularly in view of his non-involvement in any other case. Challan has already been presented. Charges have been framed, but no prosecution witnesses has been examined so far. Co-accused Shinder Singh has also been granted regular bail by the High Court vide order dated 01.12.2020 passed in CRM-M No.31849 of 2020.

Per contra, learned State counsel opposed the bail on the ground that the quantity recovered from the petitioner is commercial in nature. The complicity of the petitioner would be determined on the basis of evidence to be led before the trial Court at the relevant stage.

I have heard learned counsel for the parties.

As per custody certificate, petitioner is not involved in any other case. Petitioner is in custody for the last 3 years, 1 month and 19 days as on 30.09.2021. The trial has not commenced so far.

Looking to the aforesaid facts, period of incarceration of the petitioner and in view of the situation arising out due to COVID-19 pandemic, I deem it appropriate to enlarge the petitioner on regular bail without adverting to the merits of the case.

In view of above, petition is allowed. Petitioner is ordered to be released on regular bail, subject to his furnishing heavy 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

01.10.2021

Prince

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No