

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

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**CRM-M-41870-2020
Date of Decision: 08.02.2021**

Bhajan Lal ... Petitioner

Versus

State of Punjab ...Respondent

CORAM : Hon'ble Mr. Justice Arun Kumar Tyagi

Present : Mr. Ajay Kamboj, Advocate
for the petitioner.

Mr. P.S. Walia, Asstt. A.G. Punjab
for the respondent-State.

ARUN KUMAR TYAGI, J.(Oral)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the present (first) petition under Section 439 of the Code of Criminal Procedure, 1973 (for short, “the Cr.P.C.”) for grant of regular bail in case FIR No. 0131 dated 03.09.2020 registered under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, “the NDPS Act”) at Police Station Khuian Sarwar, District Fazilka.

As per prosecution version police party headed by ASI Sahib Singh intercepted one tractor trolley on the basis of secret information that Bhajan Lal (the petitioner) and Baldev Singh were habitual of bringing Poppy husk from Rajasthan for selling the same in Punjab. Baldev Singh was apprehended on the spot whereas the petitioner fled from the spot. Poppy husk weighing 60 kgs. was recovered from the tractor trolley.

The petitioner being in custody since 12.10.2020 has filed

the present petition for grant of regular bail.

The petition has been opposed by the learned State counsel in terms of reply filed by way of affidavit of Rahul Bhardwaj, PPS, Deputy Superintendent of Police, Sub-Division Abohar, District Fazilka in the Registry which is taken on record.

I have heard learned counsel for the petitioner and learned State counsel and gone through the relevant record.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case. The petitioner was not arrested on the spot and no recovery was made from his possession. The prosecution version is falsified by the photographs printed from the CCTV footage which show that the petitioner was not travelling on the tractor trolley and driver co-accused Baldev Singh was alone at the time of interception of tractor trolley by the police party. The petitioner is not involved in any other case under the NDPS Act. The trial is likely to take long time due to restrictions imposed to prevent the spread of infection of Covid-19 and no useful purpose will be served by further detention of the petitioner in custody. Therefore, the petitioner may be granted regular bail.

On the other hand, learned State counsel has submitted that the petitioner is accused of having kept commercial quantity of Poppy husk in his possession. In view of the nature of accusation and gravity of offence, the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

However, learned State counsel has conceded that the petitioner is not involved in any other case under the NDPS Act.

Keeping in view the facts and circumstances of the case nature of accusation against the petitioner, the fact that petitioner was not arrested on the spot and his presence at the time of apprehension of co-accused Baldev Singh is disputed and that the petitioner is not involved in any other case under the NDPS Act, consequent due satisfaction of rigors of Section 37(1)(b) of the NDPS Act and also the fact that the trial is likely to take long time due to restrictions imposed to prevent spread of COVID-19 but without commenting on the merits of the case, I am inclined to extend the concession of regular bail to the petitioner.

Accordingly, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of personal and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/ Duty Magistrate concerned.

However, the petitioner is granted regular bail subject to the condition that he shall not commit any offence under the NDPS Act after his release on bail and in case of commission of any offence by him under the NDPS Act after his release on bail, his bail in the present case shall also be liable to be cancelled on application to be filed in this regard.

08.02.2021
Vishal

(ARUN KUMAR TYAGI)
JUDGE

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No