

CRM-M-1080-2022 (O&M)

Through video conference
231

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

CRM-M-1080-2022 (O&M).
Decided on: January 17, 2022.

Rajdev Singh

.. Petitioner

VERSUS

State of Haryana

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

**PRESENT Mr.Sandeep Saini, Advocate,
for the petitioner.**

Mr.Ranvir Singh Arya, Addl. A.G. Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 439 of the Code of Criminal Procedure, seeking regular bail in FIR No.118 dated 4.5.2021, under Section 18 of the Narcotic Drugs and Psychotropic Substances Act (Section 29 of the NDPS Act added later on) and under Section 188 IPC, registered at Police Station Civil Lines, District Rohtak.

Learned counsel for the petitioner has submitted that the petitioner is in custody since 4.5.2021 which is more than 8 months and the investigation of the case is already complete and thereafter, the challan has been presented and even the charges have also been framed. He submitted

CRM-M-1080-2022 (O&M)

that the present FIR has been planted upon the petitioner because he was coming from Bihar for the purpose of purchasing buffalos as they are in the trade of selling and purchasing buffalos. He submitted that even as per the prosecution, the alleged recovery from four accused jointly was of 582 grams of opium and from the petitioner the alleged recovery was of 140 grams of opium. He submitted that even if the entire quantity is taken collectively still the same does not fall within the ambit of commercial quantity as per the schedule under the NDPS Act and it is non-commercial quantity. He submitted that petitioner has clean antecedents and is not involved in any other case and the present FIR has been planted upon the petitioner.

On the other hand, learned State counsel, on instructions from ASI Ram Niwas, has submitted that it is correct that the petitioner is in custody since 4.5.2021 and is not involved in any other case. He submitted that it is also correct that after completion of investigation, challan has been presented and even the charges have also been framed. He submitted that it is also correct that recovery from four accused was of 582 grams of opium collectively and from the petitioner the alleged recovery was of 140 grams of opium which is not the commercial quantity. However, he has opposed the grant of regular bail on the ground that opium has been recovered from the petitioner and therefore, he does not deserve the concession of regular bail. He submitted that Rs.70,000/- were also recovered from the petitioner and total Rs.3,20,000/- were recovered from all the accused.

At this stage, learned counsel for the petitioner while replying to the submissions made by the learned State counsel has

CRM-M-1080-2022 (O&M)

submitted that the amount recovered from the petitioner and others was regarding sale and purchase of buffalos because they are in the trading of same and so far as opium is concerned the same has been planted upon the petitioner by the police.

I have heard the learned counsel for the parties.

It is not disputed that the petitioner is in custody since 4.5.2021 and is not involved in any other case and therefore, he has clean antecedents. It is also not disputed that after completion of investigation, challan has been presented and even the charges have also been framed and no recovery is to be effected from the petitioner. The total recovery of 582 grams of opium that too from four persons does not fall in the category of commercial quantity

In view of above, considering the totality of circumstances, this Court deems it fit and proper to grant regular bail to the petitioner. Accordingly, the present petition is allowed. It is ordered that the petitioner shall be released on bail on furnishing bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate concerned.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant only for the purpose of decision of present petition.

January 17, 2022.
raj arora

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No