

248

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.3891 of 2022 (O&M)

Date of decision: 16.08.2022

Jagtar Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. R.S. Gill, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.121 dated 20.12.2021, registered under Sections 15 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') at Police Station Sandaur, District Malerkotla.

Counsel for the petitioner has submitted that as per the allegations in the FIR, registered at the instance of SI Major Singh, while on petrol duty along with co-officials, he noticed a tempo (chota hathi) bearing registration No.PB10-CG-0415, lying parked in an abundant condition on wrong side. On checking the same, 06 heavy plastic bags of poppy husk were recovered and the same were taken into police possession. The total recovery was 120 Kgs of poppy husk.

Counsel for the petitioner has argued that in the FIR,

nobody was nominated as an accused, however, on the basis of the mobile number written on the body of the said tempo, one Rahul Pandey was nominated as an accused in the case, who was the registered owner of the tempo and later on, on his disclosure statement, the present petitioner was nominated as an accused with the allegation that he was to receive the said consignment.

Counsel for the petitioner has further submitted that after the arrest of the petitioner, no incriminating substance was recovered from him. It is also submitted that the petitioner is the first offender and he is not involved in any other case and is in custody for the last about 07 months and 18 days.

Counsel for the petitioner has also submitted that the only evidence against the petitioner is the disclosure statement of the co-accused and except that there is no other evidence, which is collected by the police during the investigation. It is further argued that the investigation is complete and the case is now fixed for prosecution evidence and out of 15 PWs, only 03 PWs have been examined and it will take long time in conclusion of the trial.

Counsel for the State on the basis of the Custody Certificate has not disputed the factual position but opposed the prayer for bail. It is also not disputed that the recovery was effected from an abundant tempo and later on, Rahul Pandey, owner of the tempo was arrested and on the basis of his disclosure statement, the petitioner was nominated as an accused in the present case.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last about 07

months and 18 days; the petitioner is not involved in any other case; the custodial interrogation of the petitioner is not required; out of 15 PWs, only 03 PWs have been examined, so far and the conclusion of the trial will take some time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

16.08.2022
yakub

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