

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-4195-2022

Date of decision : 08.02.2022

Braham @ Brahamjeet

... Petitioner

Versus

The State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.B.S.Saroha, Advocate
for the petitioner.

Mr.Praveen Bhadu, AAG, Haryana.

(Through Video Conferencing)

VIKAS BAHL, J.(ORAL)

This is a first petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.78 dated 11.03.2020, under Sections 18 (C) of the NDPS Act, 1985, registered at Police Station, Chand Hut, District Palwal, Haryana.

The case of the prosecution, in brief, is that secret information was received by the police officials to the effect that the petitioner along with two other persons, namely, Rameshand Subhash have constructed their house at Jamna Ghat Road and in the vacant space behind their house, they have cultivated fodder (Barsim) and opium illegally and that the said poppy is grown in the plants which can be seen at the spot. Then, on the basis of the said information, the present FIR was registered. It is further the prosecution case that recovery of 30.300 kgs of poppy plant had been

the place which is stated to be behind the house of the petitioner.

Learned counsel for the petitioner has submitted that in the present case, even as per the prosecution version, the alleged recovery of 30.300 kgs of poppy plants is from khasra No.225//10 and as per the *jamabandi* of the said khasra number, all the persons are co-sharers in the same. It is further argued that nothing is on record to show that the petitioner is one who had sown or cultivated the poppy plants in question. Learned counsel for the petitioner has further submitted that co-accused of the petitioner, i.e. Ramesh @ Pappu from whom recovery of 58.900 kgs of poppy plants has been effected, has been granted regular bail by this Court vide order dated 05.10.2021 and the case of the present petitioner is on a better footing than that of said co-accused person Ramesh @ Pappu inasmuch as recovery from the petitioner, even as per the prosecution is of non-commercial quantity. It has further been argued that the petitioner has been in custody since 07.10.2021 and the challan in the present case has already been presented and there are 14 prosecution witnesses and none of them have been examined and thus, the trial is likely to take time. It has further been submitted that the petitioner is not involved in any other case.

Learned State counsel on the other hand has opposed the present petition for regular bail. However, the fact that co-accused of the petitioner namely Ramesh @ Pappu has already been granted regular bail, has not been disputed by the learned State counsel.

This Court has heard learned counsel for the parties and has perused the paper book.

It is not in dispute that the alleged recovery from the petitioner is of 30.300 kgs of poppy plants which would constitute non-commercial

quantity and the co-accused of the petitioner, i.e. Ramesh @ Pappu has already been granted regular bail by this Court vide order dated 05.10.2021 passed in CRM-M-26558-2021 and the recovery from the present petitioner is lesser than that from the said co-accused Ramesh @ Pappu, and the petitioner is stated to be in custody since 07.10.2021 and the challan in the present case has already been filed and there are 14 prosecution witnesses and none of them have been examined and thus, the trial is likely to take time and the petitioner is stated to be not involved in any other case.

Accordingly, the present petition is allowed and the petitioner is directed to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court / Duty Magistrate, subject to his not being required in any other case. The petitioner shall also abide by the following conditions:-

1. The petitioner will not tamper with the evidence during the trial.
2. The petitioner will not pressurize / intimidate the prosecution witness(s).
3. The petitioner will appear before the trial Court on the date fixed, unless personal presence is exempted.
4. The petitioner shall not commit an offence similar to the offence of which he is accused, or for commission of which he is suspected.
5. The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

In case of breach of any of the above conditions, the prosecution shall be at liberty to move an application for cancellation of bail

However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

February 08, 2022
Davinder Kumar

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