

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-11732-2022 (O & M)

Date of decision: 08.04.2022

Amrik Singh

..... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Jitender Singh Dadwal, dvocate, for the petitioner.

Mr. Sandeep Singh Deol, DAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition is for the grant of regular bail under Section 439 Cr.P.C. in a case bearing FIR No.0007 dated 22.01.2022 under Sections 15, 25, 29,61,85 of the NDPS Act registered with Police Station Maloud, Police District Khanna.

The brief facts of the prosecution case are that a secret informer informed the investigating agency that one Tirath Singh son of Darshan Singh was selling poppy husk in the surrounding villages and could be apprehended if a barricade is affixed.

On the basis of the said information, a barricade was set-up at minor Canal Bridge village Roshiana, where during the checking of vehicles, vehicle No. HR-51AF-6015 was stopped. It was driven by Tirath Singh, who was apprehended and from him 90 kilos of poppy husk was recovered. He was interrogated and during the course of interrogation, he disclosed that the 90 kilos of poppy husk recovered from him was bought by him from Dharam Mohammad and Amrik Singh, the present petitioner.

On 24.01.2022, the police party alongwith Tirath Singh went to the house of Dharam Mohammad where Amrik Singh (petitioner herein) and Dharam Mohammad were present and were arrested. From the possession of Dharam Mohammad, a truck was recovered which contained 15 kilos of poppy husk.

From the petitioner-Amrik Singh, a car bearing No.PB-56C-4500 and Rs. 1,10,000/- (cash) was recovered. However, no contraband was recovered from the petitioner.

The learned counsel for the petitioner has argued that no contraband whatsoever has been recovered from the petitioner. The recovery of Rs.1,10,000 cannot be said to be proceeds of crime and he has admitted and explained the said recovery by referring to the slip of a commission agent. He further argues that the petitioner is first-time offender and the disclosure statement of a co-accused is inadmissible in evidence as has been enumerated in various judgments passed in the cases of '*Tofan Singh versus State of Tamil Nadu, 2020 AIR (Supreme Court) 5592*', '*Rakesh Kumar Singla versus Union of India 2021 (1) RCR (Criminal) 704*'; '*Surinder Kumar Khanna versus Intelligence Officer Directorate of Revenue Intelligence, 2018(3) RCR (Criminal) 954*' and '*State by (NCB) Bengaluru versus Pallulabid Ahmad Arimutta & Anr. 2022(1) RCR (Criminal) 762*'. He, thus, prays for the concession of regular bail for the petitioner.

The learned State counsel, on the other hand, submits that the petitioner was named in the disclosure statement of his co-accused, namely, Tirath Singh, who identified the petitioner and Dharam Mohammad at the

time when the two were arrested. From the possession of the petitioner, drug money was recovered and the explanation furnished by him regarding receipt of money from the commission agent cannot be believed. He further contended that the petitioner was earlier accused in an FIR No.62 dated 03.07.2013 but was acquitted, while his co-accused, namely, Dharam Mohammad was convicted. He lastly contended that the petitioner was the owner of the truck recovered from Dharam Mohammad. He, thus, contended that the petitioner did not deserve the concession of regular bail.

I have heard the learned counsel for both the parties.

Admittedly, the petitioner has been named in the disclosure statement of his co-accused, which as per the judgments passed in the cases of ‘ *(i) Tofan Singh, (ii) Rakesh Kumar Singla, (iii) Surinder Kumar Khanna and (iv) State by (NCB) Bengaluru (supra)*, would be inadmissible in evidence. Other than being named in the disclosure statement of the co-accused, the recovery of Rs.1,10,000/- in the absence of any evidence whatsoever cannot be said to be the proceeds of crime, at least, at this stage. Even otherwise the recovery of 15 Kg. poppy husk from the co-accused is a non-commercial quantity.

Thus, keeping in view the aforementioned facts as also the fact that the trial is not likely to be concluded in the near future, no useful purpose would be served by keeping the petitioner in custody.

Accordingly, without going into the merits of the case, the present petition is allowed and the petitioner- Amrik Singh son of Bachittar Singh is ordered to be released on regular bail subject to his

furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, Ludhiana.

The petitioner shall mark his presence on the Ist Monday of every month at Police Station Maloud, Police District Khanna, District Ludhiana, till the conclusion of the trial.

April 08, 2022

sukhpreet

(JASJIT SINGH BEDI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No