

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

CRM-M-17360-2021

Date of Decision:-05.05.2022

Balwinder Singh @ Binda Sarpanch.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Sanjiv Gupta, Advocate for the Petitioner.

Mr. Kirat Singh Sidhu, Deputy Advocate General, Punjab.

JASJIT SINGH BEDI, J. (ORAL)

The Prayer in this petition is for the grant of regular bail under Section 439 Cr.PC in case FIR No.08 dated 22.01.2021 under Sections 15(b), 18(b), 22(c), 21 and 25 of NDPS Act, 1985 registered at Police Station Nathana, District Bathinda.

The brief facts of the case are that while patrolling the police party found one canter parked on the left side of the road in the area of village Lehra Mohabbat. One person was seen to be loading one plastic bag on the conductor side. On suspicion the police party apprehended the person who disclosed his name as Balwinder Singh @ Binda Sarpanch, the present petitioner. From the vehicle 10Kgs of Poppy Husk, 500gms of Opium and 2000 intoxicating tablets of Alprazolam were recovered leading to the registration of the present FIR.

The Counsel for the petitioner submits that petitioner is a Sarpanch of the village having 15 acres of land and his two sons are residing abroad. He was affiliated with Akali party and has been falsely implicated in the present case on account of political rivalry. He refers to documents Annexures P-1 to P-5 to substantiate his arguments about his political affiliation and his financial status. He contends that in fact the petitioner was arrested from his house and not in the manner as suggested in the FIR. In fact it can be verified from the tower location of the phone of various police officials in the police party. Various other documents have been referred to substantiate the claim that he is a man of sufficient means and, therefore, was unlikely to commit the offence in question. He thus contends that he has been falsely implicated in the present case and has submitted representations regarding his false implication on which no action has been taken.

The Counsel for the State on the other hand submits that the petitioner is a hardened criminal with as many as 17 FIRs having been registered against him over a period of time starting from the year 1991. He submits that recovery of commercial quantity of contraband has been made from him and thus the bar under Section 37 of the NDPS Act, 1985 would be applicable for the grant of bail on him. He further contends that the financial status of the petitioner did not in any manner prove him to be innocent and his contentions raised in this petition are a matter of his defence at the trial. He thus contends that the petitioner does not deserve the concession of regular bail.

I have heard counsel for both the parties at length.

Undoubtedly the recovery of the contraband effected from the

petitioner is of commercial quantity. The various grounds raised in the present petition would be a matter of his defence during the course of trial and at this stage it cannot be said that he has been falsely implicated. So far as his financial status is concerned, this does not in any way prove his innocence. As many as 17 FIRs over a period of time have been registered against the petitioner over a number of years, which also shows that the petitioner has criminal antecedents though this fact has been denied by the counsel for the petitioner on the ground that proceedings in only two FIRs remain pending.

Be that as it may, keeping in view the quantum of recovery which is commercial in nature, the bar under Section 37 of the NDPS Act, would certainly be applicable.

Keeping in view the above, the petitioner is not entitled to the concession of regular bail and hence the present petition is hereby dismissed.

However, since the petitioner is in custody since January 2021, I deem it appropriate to direct the Trial Court to conclude the trial preferably within a period of 06 months from the next date of hearing fixed before it.

(JASJIT SINGH BEDI)
JUDGE

May 05, 2022
Vinay

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