

CRM-M-20495-2022 (O & M)**Date of decision: 18.07.2022**

Dharma Mohammad

..... 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. Sidakmeet Singh Sandhu, AAG, 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 Section 15 of the NDPS Act registered with Police Station Maloud, Police District Khanna, District Ludhiana.

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 (the present petitioner) and Amrik Singh.

On 24.01.2022, the police party alongwith Tirath Singh went to the house of Dharam Mohammad (petitioner herein) where Amrik Singh and Dharam Mohammad were present and were arrested. From the

possession of Dharam Mohammad, a truck was recovered which contained 15 kgs. of poppy husk.

From the co-accused, namely, Amrik Singh, a car bearing No.PB-56C-4500 and Rs. 1,10,000/- (cash) was recovered.

The learned counsel for the petitioner has argued that only 15 kgs. of poppy husk was recovered from the petitioner, which is a non-commercial quantity. So far as the disclosure statement of co-accused is concerned, the same 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 further contends that Amrik Singh, the owner of the truck, of which the petitioner is said to be a driver, has been granted the concession of bail by this Court vide order dated 08.04.2022. He, thus, prays for the concession of regular bail for the petitioner.

The learned State counsel, while placing reliance on the custody certificate submits that the petitioner was named in the disclosure statement of the co-accused of the petitioner, namely, Tirath Singh, who identified Amrik Singh and the present petitioner-Dharam Mohammad at the time when the two were arrested. He contended that from the possession of the petitioner, 15 kgs. of poppy husk was recovered, and therefore, he does not deserve the concession of regular bail as he was also involved in another case i.e. FIR No.62 dated 03.07.2013 under Section 15 NDPS Act, Kotfatta,

District Bathinda, in which he has been convicted by the Court of Additional Sessions Judge, Bathinda, vide judgment dated 09.08.2016.

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 15 Kg. poppy husk has been effected from the petitioner, which 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-Dharma Mohammad son of Teja Mohammad, 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 1st Monday of every month at Police Station Maloud, Police District Khanna, District Ludhiana, till the conclusion of the trial and shall furnish an affidavit each time that he is not involved in any other case other than the two mentioned in this order.

(JASJIT SINGH BEDI)
JUDGE

July 18, 2022
sukhpreet

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