

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

214

CRM-M-23504-2022 (O&M)

Date of decision: 01.06.2022

GAGANDEEP KUMAR

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present : Mr. P.S. Sekhon, Advocate
for the petitioner.

Mr. Karanbir Singh, AAG Punjab.

VINOD S. BHARDWAJ. J. (ORAL)

The instant petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.139 dated 31.12.2021 under Sections 15 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'NDPS Act') registered at Police Station Chhajli, District Sangrur.

Learned counsel for the petitioner *inter alia* contends that the petitioner is driver of Ramzan Khan. The case of the prosecution is based upon a secret information and two bags of poppy husk carrying total quantity of 55 kg were recovered from the truck bearing registration No. PB-13BC-5255. He contends that the truck in question belongs to Ramzan Khan and the petitioner had no knowledge of the goods loaded in the same. He further contends that the petitioner does not have any criminal antecedents and is not involved in any other case under the NDPS Act. He further submits that the petitioner is in custody since 31.12.2021 and has already undergone 05 months of custody. He submits that even though the quantity recovered is commercial quantity but considering

that there is no involvement of the petitioner and also noticing the fact that the petitioner cannot be presumed to be conscious of the goods loaded in the vehicle, the concession of bail may be granted to the petitioner. He further submits that the trial has not commenced and no witness has been recorded so far.

The submissions advanced on behalf of the petitioner are objected to by the learned State counsel, who submits that the recovery of commercial quantity of poppy-husk was effected from the truck that was being driven by the petitioner and that a presumption in terms of Section 54 of the NDPS Act would be applicable. It is however not disputed that the petitioner is not the owner of the truck in question and was merely a driver. It is also not controverted that the petitioner does not have any criminal antecedents and that the petitioner has undergone custody of more than 05 months and no evidence has been recorded so far.

I have heard learned counsel for the parties and have perused the material on record.

Taking into consideration the period of custody undergone by the petitioner and also the fact that no evidence has been recorded so far and that the trial is likely to take a long time, I deem it appropriate to enlarge the petitioner on bail.

Accordingly, the present petition is allowed and the petitioner is admitted to regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of Trial Court/Duty Magistrate, concerned.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

The observation made hereinabove shall not be construed as an

expression on the merits of the case and the Trial Court shall decide the case on the basis of available material.

(VINOD S. BHARDWAJ)
JUDGE

June 01, 2022

S.Sharma(syr)

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>