

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M No.24390 of 2022

Reserved on : 29.07.2022

Date of Decision : 04.08.2022

Jasbir Singh

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. R.P. Dhir, Advocate for the petitioner.

Ms. Simran Grewal, AAG Punjab.

ALKA SARIN, J.

This is the third petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.82 dated 16.04.2020 under Sections 15/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Lalru, District SAS Nagar (Mohali). The earlier two petitions being CRM-M-37986-2020 and CRM-M-25106-2021 were dismissed as withdrawn on 25.11.2020 and 12.01.2022, respectively.

Learned counsel for the petitioner would contend that the petitioner has been in custody for a period of 02 years 02 months and 08 days and the trial is likely to take a long time since charges have been framed only on 01.04.2022 and no prosecution witness has been examined till date. It is further the contention of learned counsel for the petitioner that the petitioner has clean antecedents and there is no other case pending against him.

On merits, learned counsel for the petitioner has contended that the story put-forth in the FIR was that a vehicle being EICHER Canter was seen coming at about 02.00 a.m. and the driver of the Canter stopped it 15 to 20 yards before the *naka* and fled away from the vehicle. It has further been stated in the FIR that Hawaldar Daler Singh with the help of light from a torch recognized the driver and stated that he was Jaswant Pal Singh son of Karnail Singh and the other person was recognized by ASI Shiv Charan Singh with the help of a torch light that he was Jasbir Singh (petitioner herein). It has further been stated in the FIR that poppy-husk was recovered from the said Canter and that the Canter was registered in the name of the petitioner, Jasbir Singh.

Status report by way of affidavit of Harvinder Singh, PPS, Deputy Superintendent of Police, Sub Division Derabassi, District SAS Nagar (Mohali) has been filed, which is taken on record. In the said status report the version as stated in the FIR has been reiterated.

Learned State counsel has submitted from the status report that out of 18 prosecution witnesses no witness has been examined till date. As per custody certificate, the petitioner has been in custody since 02 years 02 months and 08 days and there is no other case pending against him.

In the present case the petitioner was arrested on 22.04.2020 and has been in custody now for a period of 02 years 02 months and 08 days. The petitioner is a first time offender. The total recovery from the two accused in the present case is 28 bags of poppy husk weighing 4 quintals 48 kilograms.

Keeping in view the fact that the case as set up is that the petitioner herein was identified at 02.00 a.m. with the help of torch light by police personnel present at the *naka* as well as the fact that the petitioner has been in custody for a period 02 years 02 months 08 days and that he is a first time offender and also the fact that the charges have been framed only on 01.04.2022 and no prosecution witness has been examined till date, I deem it appropriate to allow the present petition.

In view of the above and without commenting upon the merits of the case, I deem it fit to grant the concession of regular bail to the petitioner. The petitioner is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate/Trial Court concerned.

However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

Disposed off. Pending applications, if any, also stand disposed off.

04.08.2022
jk

(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO