

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc.-M-33087 of 20221

Date of Decision: January 07, 2022

Sahil Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr.Umesh Kumar Kanwar, Advocate,
for the petitioner.

Mr.Bhupender Singh, DAG, Haryana.

MANOJ BAJAJ, J. (Oral)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail, pending trial in case FIR No.74 dated 28.05.2021, under Sections 15(b), 29,61, 85 N.D.P.S.Act, 1985, registered at Police Station, Adampur, District Jalandhar, who is in custody since his arrest on 28.05.2021.

The contents of the FIR, as noticed by the Judge, Special Court, Jalandhar in his order dated 27.07.2021 while dismissing the bail application of the petitioner, read as under:-

“6. From the perusal of the police file, this court finds that as per the case of the prosecution, on 28.05.2021, SI Surinder Singh alongwith other police officials for the purpose of patrolling in the area were going from Jandu Singha towards Kapur Pind, Daroli Kalan etc. When police party reached near grain market, Daroli Kalan, one Bolero vehicle bearing registration No.PB-08-EC-1538, came from the side of bus stand Daroli Kalan. On seeing the police party, the driver of the vehicle turned the vehicle towards grain market Daroli Kalan. On the basis of suspicion, SI Surinder Singh alongwith

other police officials apprehended the accused. The driver of the vehicle disclosed his name as Sahil Singh son of Balwinder Singh and the person sitting alongwith the driver, disclosed his name as Malkit Singh. After adopting due procedure under Section 50 of the NDPS Act, the search of the vehicle was conducted which led to the recovery of 40 kg of poppy husk from the accused. Same was taken into police possession vide separate recovery memo. On 29.05.2021, during investigation of the case, co-accused Malkit Singh made a confessional statement that for the last two years after purchasing poppy husk from Kullu Manali (Himachal Pradesh), he used to sell the same in the near by villages. He used to take vegetables in his Bolero vehicle to Himachal Pradesh and on return, he used to bring Poppy Husk from there. He further stated that by selling poppy husk, he had purchased one Bolero and one Honda City Car. He further stated that about 4-5 days ago, he had sold 20 kg poppy husk to Arshdeep Singh son of Jaswinder Singh for a sum of Rs.2200/- per Kg. and another 20 kg poppy husk is lying in his Honda City Car bearing registration No. CH-03W-1020. On the basis of disclosure statement made by co-accused, 20 kg poppy husk was recovered from the said car.....”

Learned counsel for the petitioner has argued that initially 40 Kgs. of poppy-husk was recovered from the vehicle bearing registration No.PB-08-EC-1538 (Bolero), which was being driven by the petitioner. He submits that at that time, the owner of the vehicle was also travelling with the petitioner when they both were arrested. According to him, the recovered contraband falls below the commercial quantity, therefore, the further custody of the petitioner may not be necessary as after completion of investigation, the trial has commenced. He prays for bail.

On the other hand, the prayer is opposed by the learned State counsel assisted by ASI Bhupinder Pal Singh, who has argued that after

recovery of 40 kgs. of poppy-husk from the vehicle driven by the petitioner, another 20 kgs. of poppy-husk was recovered from vehicle bearing registration No.CH-03W-1020 (Honda City) on the basis of disclosure suffered by co-accused Malkiat Singh on 29.05.2022. He submits that collectively the entire quantity would be commercial in nature, therefore, the petitioner being associate of Malkiat Singh does not deserve this concession.

At this stage, learned counsel for the petitioner has argued that the said contraband of 20 kgs. of poppy-husk cannot be said to be in conscious possession of the petitioner as the same was recovered from the vehicle parked in the house of co-accused Malkiat Singh. He submits that the petitioner is not involved in any other case of similar nature.

After hearing the learned counsel for the parties and considering the above background, this court is of the opinion that the trial is likely to consume considerable time to conclude, therefore, the further detention of the petitioner behind the bars may not be necessary for any useful purpose, who is presently confined in judicial custody.

Resultantly, without meaning any expression of opinion on the merits of the case, the petition is allowed and it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/CJM, Jalandhar.

January 07, 2022
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No