

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

(Sr. No. 223)

CRM-M No. 34405 of 2021

Date of decision : 07.02.2022

Sukha Singh @ Sukha

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL

Present : Mr. Ashok Giri, Advocate for the petitioner.

Ms. Ruchika Sabharwal, AAG, Punjab.

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DEEPAK SIBAL, J. (Oral)

The matter has been taken up through video conferencing.

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail in FIR No. 84 dated 31.07.2019 registered under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short – the NDPS Act) (Section 29 of the NDPS Act added later on), at Police Station Lohian, district Jalandhar Rural.

Briefly stated, the case of the prosecution is that Sukhwinder Singh @ Bagga and one Gopi were going in a car; on suspicion they were stopped by the police party; Gopi managed to flee but from the car 80 Kgs. poppy husk was recovered; Sukhwinder Singh @ Bagga was arrested and that he disclosed that it was the petitioner who had sold the recovered poppy husk to him.

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in this case; he is in custody since 22.07.2020; investigation in the case is complete; there is no other case against the petitioner under the NDPS Act; there is no recovery of any narcotic/psychotropic substance from the petitioner's person; the only evidence against the petitioner is the disclosure statement made by a co-accused in police custody which is not admissible under Section 25 of the Indian Evidence Act, 1872; co-accused Sukhwinder @ Bagga from whom the alleged recovery of poppy husk was made has been granted regular bail and that since in the petitioner's case the trial is yet to begin, it will take a long time to conclude.

Learned State counsel opposes the grant of bail to the petitioner on the ground that he supplied 80 Kgs. poppy husk to co-accused Sukhwinder Singh @ Bagga and he is involved in one other criminal case under IPC.

The evidentiary value of the statement of co-accused Sukhwinder Singh @ Bagga in police custody with regard to the petitioner having supplied the poppy husk to him shall be debated during the course of the petitioner's trial. However, the petitioner is in custody for the last over one and a half year; he does not face any other case under the NDPS Act; co-accused Sukhwinder Singh @ Bagga from whom the alleged recovery was made has been released on regular bail by this Court; investigation in the case is complete and the petitioner's trial which is yet to begin is likely to take a long time to conclude.

In view of the above, the present case is considered to be a fit

one in which the petitioner be directed to be released on regular bail. Resultantly, subject to the satisfaction of the CJM/Duty Magistrate, Jalandhar the petitioner is directed to be released on bail.

It is clarified that the above observations have been made only for the limited purpose of deciding the present regular bail application and the same would not be construed to be an expression of opinion on the merits of the case.

07.02.2022

sunil yadav

**(DEEPAK SIBAL)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No