

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-32757-2022 (O&M)

Date of Decision: 2.8.2022

Manish Kumar

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Harlove Singh Rajput, Advocate
for the petitioner.

Ms. Samina Dhir, DAG, Punjab

KARAMJIT SINGH, J.

CRM-26501-2022

Allowed as prayed for

Main case

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.26 dated 27.3.2022 registered for the offences punishable under Sections 15 and 16 of NDPS Act at Police Station Sadar Raikot, District Ludhiana.

The counsel for the petitioner contended that as per the allegations recorded in the FIR, the police received secret information that co-accused Harinderjit Singh and his son Gurpreet Singh had planted poppy plants in backyard of their old house and now they are ready to harvest the same and the police raided the disclosed place and 1200 poppy plants weighing about 70 kg were recovered and taken into possession by the police. The counsel for the petitioner contended that the presence of the

petitioner at the spot was falsely shown by the police and actually he was arrested later on by the police. The counsel for the petitioner further contended that the land from where the alleged poppy plants were recovered is not owned by the petitioner and rather the same is shamlat land. He further submits that the petitioner is the servant of co-accused Harinderjit Singh @ Billu Aartiya who was granted regular bail by this Court vide order dated 1.6.2022 passed in CRM-M-21332-2022. The counsel further contended that even otherwise as per notification No.SO1055(E) dated 19th October, 2001 which is part of the NDPS Act, small quantity and commercial quantity with respect to cultivation of opium poppy is not specified separately as the offence in this regard is covered under clause (c) of Section 18 of NDPS Act. The counsel further contended that in view of the above, the petitioner who is in custody since 27.03.2022 is entitled to grant of regular bail.

The State counsel on the other hand, has opposed the present petition. The State counsel submits that the aforesaid plants of opium poppy were recovered from the property possessed by the petitioner and co-accused.

The State counsel further submits on completion of investigation, the police has presented the challan but the trial is yet to commence. The State counsel further submits that in these circumstances, the petitioner is not entitled to grant of concession of regular bail. However, the State counsel has not disputed the contention raised by counsel for the petitioner that it being the case of recovery of opium poppy plants, the same is covered under the provision of Section 18 (c) of NDPS Act, as per the

schedule appended to the NDPS Act.

In view of the above, as it is admitted case of the prosecution that the present case is covered under Section 18(c) of NDPS Act which provides maximum sentence of 10 years coupled with the fact that the police has already presented the challan on completion of investigation and further the petitioner being aged about 24 years, no purpose is going to be served by keeping him in custody for any longer period. Admittedly, co-accused Harinderjit Singh @ Billu Aartiya was granted regular bail by this Court vide order dated 1.6.2022 passed in CRM-M-21332-2022.

Thus, without commenting on the merits of the case the present petition is hereby accepted and the petitioner is ordered to be released on bail subject to his furnishing bail and surety bonds to the satisfaction of the CJM/Duty Magistrate concerned.

(KARAMJIT SINGH)
JUDGE

August 2, 2022

Paritosh Kumar

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