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

CRM-M-37188-2022

Date of Decision: 29.08.2022

Baldev Singh @ Billu

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Rishu Mahajan, Advocate,
for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

The present 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.102 dated 21.06.2003, under Section 18 of the N.D.P.S. Act, 1985, registered at Police Station Phillaur, District Jalandhar.

Learned counsel for the petitioner has submitted that in the present case, the FIR was registered on 21.06.2003 and the allegations against the petitioner were that he was carrying 450 grams of *Opium* in a packet which he threw away and left the spot and the Constable recognized him. He further submitted that thereafter the police did not pursue the matter and the petitioner has been residing in the same village from that point of time and he was never served but at the back of the petitioner, the proclamation proceedings were initiated against him and he was declared as Proclaimed Offender. He also submitted that despite the fact that he was declared a proclaimed offender and he did not have any knowledge about

the aforesaid declaration, no FIR under Section 174-A of the IPC or any other proceedings were initiated against him. He further submitted that after a period of 18 years, he has been arrested and he is now in custody from 11.12.2021. He also submitted that it was a case of false implication, in view of the fact that from the aforesaid year of 2003, there is no other case against the petitioner and he has been living peacefully and it was only because of the wrong conduct of the police officials that a false FIR was registered against him and now he has been arrested wrongfully. He further submitted that be that as it may, the alleged quantity in the present case was only 450 grams of *Opium*, which does not fall in the category of commercial quantity, and therefore, the petitioner may be considered for the grant of regular bail.

On the other hand, Mr. Kunal Vinayak, learned AAG, Punjab, has submitted that it is correct that the present FIR is of the year 2003 and the quantity involved in the present case does not fall in the commercial quantity under the NDPS Act. He further submitted that it is also correct that the petitioner is not involved in any other case but he was declared as Proclaimed Offender in the year 2003 and was arrested after a period of 18 years. He also submitted that it is also correct that no proceedings were initiated against the petitioner under Section 174-A of the IPC. He further submitted that all the witnesses have been examined.

However, at this stage, learned counsel for the petitioner has stated that in fact one witness is still left and all the witnesses have not been examined till date and the said witness is not coming forward along with the record and therefore, the trial has been delayed at the hands of the official

witnesses.

I have heard the learned counsel for the parties.

The petitioner is in custody since 11.12.2021. As per the allegations in the FIR, in the year 2003, the petitioner was seen by one police official that he was carrying one plastic bag but he was not apprehended at the spot and thereafter, he was declared as Proclaimed Offender but as per the learned counsel for the petitioner, there is no other case against the petitioner during that period and no proceedings under Section 174-A of the IPC were initiated against him. The alleged quantity recovered from the petitioner does not fall in the category of commercial quantity and the petitioner has already faced incarceration for more than 8 months. Furthermore, it is not the case of the State that in case the petitioner is released on bail then he may abscond or flee from justice or may influence any witness. Therefore, in view of the aforesaid facts and circumstances, this Court deems it fit and proper to grant bail to the petitioner.

Consequently, the present petition is allowed and the petitioner is ordered to be released on bail on furnishing bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

29.08.2022

Bhumika

(JASGURPREET SINGH PURI)

JUDGE

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |