

(204) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-39093-2022

Date of Decision: 09.09.2022

Sombir

... Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Sandeep Kotla, Advocate
for the petitioner.

Mr. Parveen Kumar Aggarwal, DAG, Haryana.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.185 dated 16.05.2022 (Annexure P-1) registered under Section 15 of NDPS Act, 1985 with Police Station Sadar, District Jhajjar.

2. The present FIR came to be registered on the basis of secret information that Sombir (the present petitioner) and Sompal son of Vijaypal were indulging in the business of selling of poppy husk and a truck bearing No.HR-63-B-6274 which was loaded with poppy husk was coming towards from Rewari side and if a barricading was done, the truck could be apprehended. Pursuant to the compliance of Section 42 of the NDPS Act barricading was done and on seeing the truck, it was signalled to stop. The driver of the truck disclosed his name as Sompal and the person sitting on the conductor seat disclosed his name as Sombir (the present petitioner). After compliance of Section 50 of the NDPS Act etc. a recovery of 11 kgs 740 grams of poppy husk was effected from the vehicle.

3. The learned counsel for the petitioner contends that the recovery allegedly effected from the vehicle is a non-commercial quantity. No recovery was effected from the personal search of the petitioner and

therefore, the petitioner could not be said to be in conscious possession of the same. In fact, he has taken a lift from the driver Sompal. He was not involved in any other case and he has been in custody since 16.05.2022. The investigation stands completed and none of the 17 prosecution witnesses have been examined so far. The trial of the present case is not likely to be concluded in the near future. He thus, prays for the grant of regular bail.

4. On the other hand, the learned State counsel does not dispute the factual position, so far as the stage of trial is concerned. He however, submits that offences of this kind are on the rise and the petitioner does not deserve the concession of regular bail.

5. I have heard the learned counsel for both the parties at length.

6. Admittedly, the petitioner has been in custody since 16.05.2022. None of the 17 prosecution witnesses have been examined so far. The recovery of 11 kgs 740 grams of poppy husk is non-commercial quantity and therefore, the bar of Section 37 of NDPS Act would not apply to this case.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Sombir son of Karan Singh is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

09.09.2022

JITESH

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No