

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-43447-2021 (O&M)
Date of Decision:- 17.3.2022

Makhan Singh

.... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Harvinder Singh Mann, Advocate, for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana,
assisted by ASI Mahender Singh.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No.132, dated 14.5.2021, Police Station Sadar, District Fatehabad, under Sections 15, 27-A, 29 of NDPS Act and Section 51 of Disaster Management Act, 2005.
2. As per the case of prosecution, on 14.5.2021 a police party headed by SI Mahender Singh intercepted a pick-up van bearing registration No.HR-57-A-9987, in the area of police Station Sadar, Fatehabad, in which Angrej Singh @ Geja and Yakub were travelling though, it was

a period when lockdown had been imposed in the State of Haryana. Upon search of the vehicle 101 kg of 'Poppy straw' was recovered. The apprehended persons disclosed that the recovered 'Poppy Straw' had been brought by them at the instance and instructions of petitioner-Makhan Singh and was to be delivered to him.

3. Learned counsel for the petitioner has submitted that he was never ever found at the spot and has been nominated on the basis of a disclosure statement made by co-accused Angrej Singh @ Geja and Yakub to the effect that the recovered 'Poppy Straw' was to be delivered to him. It has been submitted that such like disclosure statements would not carry any evidentiary value and is not sufficient to nail the alleged guilt of the petitioner.
4. On the other hand learned State counsel has submitted that apart from the disclosure statements the investigating agency has collected call details record indicating that the petitioner had been in constant touch with co-accused on telephone and which would indicate that it was at his instance the co-accused were carrying 'Poppy Straw'. Learned State counsel has further informed that the petitioner stands convicted in one more case for offence under NDPS Act and as such does not deserve the concession of bail. It has also been informed that the petitioner as on date has been behind bars since the last about 6 months. It has also been informed that as on date none out of the cited 24 PWs has been examined.
5. I have considered rival submissions addressed before this Court.

6. It is not in dispute that the petitioner was never arrested at the spot and is sought to be nominated on the basis of a disclosure statement made by co-accused. The veracity and admissibility of such like disclosure statements would be debatable. Though, the investigating agency has collected call detail record indicating that some calls had been exchanged between the petitioner and co-accused, but it is yet to be determined as to whether the said exchanged calls were pertaining to the transportation or purchase of contraband or not. In any case, the petitioner has been behind bars for a substantial period of 6 months. Conclusion of trial is likely to consume time inasmuch as none out of the cited 24 PWs has been examined till date. The petition, as such, is accepted and the petitioner is ordered to be released on bail subject to his furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.
7. It is however, clarified that none of the observations made above shall be taken to be an expression on merits of the case.

17.3.2022

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(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No