

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

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**CRM-M-45248-2021
Date of decision: 03.08.2022**

JASPAL SINGH @ HAPPY

....Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present : Mr. L.S. Sekhon, Advocate
for the petitioner.

Ms. Amarjit Kaur Khurana, DAG, Punjab.

VINOD S. BHARDWAJ. J. (ORAL)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.115 dated 22.11.2017 registered under Section 15 and 29 of the Narcotics Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'NDPS Act' at Police Station Sadar Sangrur, District Sangrur.

2. As per the case of the prosecution, on 22.11.2017 Inspector Harwinder Singh, Incharge, CIA Bahadur Singh Wala along with other police officials were present near Nankiana Sahib Gurudwara, in connection with checking of suspicious persons. At about 2.30 P.M. the police party met with officials HC Sarbjit Singh. HC Jasvir Singh, etc. At that place Inspector Harwinder Singh got secret information that

Jaspal Singh was having one truck bearing No. PB 13J-9275 and he had

kept one driver namely Harpreet Singh at that truck. They used to take that truck out of state and while returning, they brought heavy quantity of poppy husk in their truck and they used to supply such poppy husk in the different villages of Sangrur. On that day, they both were coming in that truck, while loading heavy quantity of poppy husk and they were going towards their village Ghabdan via Sunam and they could be apprehended in case nakabandi was held at drain bridge near village Bhindran. Considering that information to be reliable, ruqa was sent to the police station and on that basis, FIR under Section 15 of NDPS Act was registered against both the accused Jaspal Singh and Harpreet Singh.

3. Then nakabandi was held at the concerned place and that truck was intercepted at that place, which was being driven by accused Harpreet Singh and 62 Kgs. of poppy husk was recovered from that truck and accused Harpreet Singh could not produce any licence to keep such intoxicant material. During interrogation, it transpired that accused Jaspal Singh (petitioner herein) was also coming in that truck along with Harpreet Singh but he got out of the truck due to some work before reaching the place of recovery.

4. Learned counsel appearing on behalf of the petitioner contends that undisputedly the petitioner was not in the truck when the contraband was recovered and the case of the prosecution is that he had disembarked from the truck earlier in point of time before the interception was done. He contends that the petitioner cannot be said to be in conscious possession of the contraband which was recovered from the said co-accused. It is further contended that the said co-accused

Harpreet Singh from whom the recovery had been effected has already been granted concession of regular bail by this Court vide order dated 16.03.2018 passed in CRM-M-8323 of 2018 titled "*Harpreet Singh versus State of Punjab*". He further contends that the petitioner has already undergone custody of 10 months and 12 days.

5. Learned counsel appearing on behalf of the respondent-State however submits that the petitioner was accompanying the accused Harpreet Singh from whom the recovery had been effected and that they were both engaged in the business of selling Narcotics. She however does not dispute the fact that the co-accused from whom the recovery was effected has already been granted the concession of bail. It is also uncontroverted that the petitioner was not in the truck when the same was intercepted. The period of custody is also not a subject matter of dispute. Learned State counsel has also pointed out that there are two other cases registered against the petitioner in which the petitioner is under-trial . The other cases that have been registered against the petitioner under the NDPS Act and other provisions, the petitioner has either been acquitted or has already undergone the sentence awarded to him. It is however not disputed that insofar as the present case is concerned, the petitioner would be placed on a better footing vis. a vis. the co-accused from whom the possession has been recovered and he cannot be put at a disadvantageous footing as compared to his co-accused from whom the recovery has actually been effected.

6. I have heard learned counsel appearing on behalf of the respective parties and have gone through the record with their able

assistance.

7. Without examining the merits of the instant case and taking into consideration, the circumstances noticed above, the period of custody already undergone by the petitioner, the fact that he was not present at the spot when recovery was effected from co-accused as well as the fact that the said co-accused has already been granted concession of regular bail, I deem it appropriate to enlarge the petitioner on bail to the satisfaction of the trial Court.

8. The instant petition is allowed and the petitioner is ordered to be released on bail on his furnishing requisite bail bond/surety bond to the satisfaction of the Trial Court/Duty Magistrate, concerned.

9. It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

10. The observation made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall decide the case on the basis of available material.

The petition is allowed.

(VINOD S. BHARDWAJ)
JUDGE

AUGUST 03, 2022
vishal sharma

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