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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-47340-2021 (O&M)
Date of Decision:05.07.2022

Malkit Singh

.. Petitioner

Vs.

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Ms. Taranjit Kaur Hundal, Advocate for the petitioner.

Mr. Sandeep Singh Deol, DAG, Punjab.

...

Manoj Bajaj, J. (Oral)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail, pending trial in case FIR No.74 dated 28.05.2021, under Sections 15(b) NDPS Act, 1985 (Section 29 NDPS Act was added later on) registered at Police Station, Adampur, District Jalandhar (Rural), who is in custody since his arrest on 28.05.2021.

The contents of the FIR, as noticed by the Judge, Special Court, Jalandhar in his order dated 27.07.2021 while dismissing the bail application of the petitioner, read as under:-

“On 28.05.2021, SI Surinder Singh alongwith other police officials for the purpose of patrolling in the area were going from Jandu Singha towards Kapur Pind, Daroli Kalan etc. When the police party reached near grain market, Daroli Kalan, one Bolero vehicle bearing registration No.PB-08-EC-1538, came from the side of bus stand Daroli Kalan. On seeing the police party, the driver of the vehicle turned the vehicle towards grain market Daroli Kalan. On the basis of suspicion, SI Surinder Singh alongwith other police officials apprehended the accused. The driver of the vehicle disclosed his name as Sahil Singh son of Balwinder Singh and the person sitting alongwith the driver, disclosed his name as Malkit Singh. After adopting due procedure under Section 50 of the NDPS Act, the search of the vehicle was conducted which led

to the recovery of 40 kg of poppy husk from the accused. Same was taken into police possession vide separate recovery memo. On 29.05.2021, during investigation of the case, Malkit Singh made a confessional statement that for the last two years after purchasing poppy husk from Kullu Manali (Himachal Pradesh), he used to sell the same in the near by villages. He used to take vegetables in his Bolero vehicle to Himachal Pradesh and on return, he used to bring Poppy Husk from there. He further stated that by selling poppy husk, he had purchased one Bolero and one Honda City Car. He further stated that about 4-5 days ago, he had sold 20 kg poppy husk to Arshdeep Singh son of Jaswinder Singh for a sum of Rs.2200/- per Kg. and another 20 kg poppy husk is lying in his Honda City Car bearing registration No.CH-03W-1020. On the basis of disclosure statement made by accused, 20 kg poppy husk was recovered from the said car. ”

Learned counsel for the petitioner has argued that initially, the police had recovered 40 kgs of poppy husk from vehicle bearing No.PB-08-EC-1538 (Bolero), and arrested petitioner alongwith his co-accused, namely, Sahil Singh, and the said co-accused has already been released on regular bail vide order dated 07.01.2022 passed by this Court. She has further argued that subsequently, on the basis of disclosure statement made by the petitioner, another 20 kgs of poppy husk was recovered from a vehicle bearing No.CH-03W-1020, but the police could not have clubbed the separate recovery of 20 kgs of poppy husk with the initial recovery, and this has been done illegally to bring the quantity within the commercial category. Learned counsel has argued that the petitioner is not involved in any other case, therefore, he be released on regular bail.

The prayer is vehemently opposed by learned State counsel assisted by ASI Jeewan Kumar, who has argued that the total recovered quantity of contraband is commercial in nature as per the NDPS Act and the case of the co-accused, namely, Sahil Singh is distinguishable, as recovery of 20 kgs of poppy husk is not attached to him. Learned State counsel has further produced the custody certificate by way of affidavit of Hemant

Sharma, PPS, Additional Superintendent Central Jail, Kapurthala, which indicates that the petitioner is involved in number of NDPS cases and in one of the cases bearing FIR No.68 dated 15.03.2002, he has already been convicted and sentence of rigorous imprisonment of ten years stands imposed upon him. Learned State counsel has further pointed out that both the vehicles involved in the crime are owned by the petitioner.

After hearing the learned counsel for the parties and considering the above background, this Court finds that the argument of the learned counsel that for the subsequent recovery of 20 kgs of poppy husk, a separate FIR ought to have been registered is without any merit, as the said recovery was effected during the course of investigation based upon the disclosure of the petitioner. Apart from it, learned counsel is unable to show if, any prejudice has been caused to the petitioner for clubbing the two recoveries. Further the petitioner has attempted to conceal the material facts by not disclosing in the petition his involvement in similar other cases.

Resultantly, considering the gravity of the offence as well as the quantity of the contraband, this Court without meaning any expression of opinion on the merits of this case, does not find it to be a fit case for releasing the petitioner on regular bail.

Dismissed.

05.07.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No