

233

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

CRM-M-47499-2022

Date of decision : 22.11.2022

Gurjit Singh @ Sunny

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Gaurav Datta, Advocate for the petitioner.

Mr. Ramdeep Partap Singh, Sr. DAG, Punjab.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of regular bail to the petitioner in FIR No.34 dated 12.03.2022 registered under Sections 18, 29, 61 and 85 of NDPS Act, at Police Station Sultanwind, District Police Commissionerate Amritsar, Punjab.

Learned counsel for the petitioner has submitted that the petitioner is in custody since 12.03.2022 and investigation is complete and challan has been presented and there are 13 prosecution witnesses, out of which, none have been examined as yet and thus, the conclusion of trial is likely to take time. It is further submitted that the petitioner is not involved in any other case and even as per the prosecution case, it was co-accused Baldev Singh who was allegedly holding polythene bag which he had tried

to throw away after lowering the driver side's window of the car, from which, 1 kg of opium which is non-commercial quantity was recovered. It is further submitted that it was not the present petitioner who was in conscious possession of the said opium and at any rate, the alleged recovery effected from the petitioner and the said Baldev Singh at the time when they were present together in the car was of 1 kg of opium which would fall within the stipulated non-commercial quantity inasmuch as the commercial quantity of the same starts from 2.5 kg.

On the other hand, learned State Counsel has opposed the present petition for grant of regular bail to the petitioner and has submitted that on the disclosure statement of co-accused Baldev Singh, a further recovery of 2 kg of opium has also been effected from his house.

Learned counsel for the petitioner, in rebuttal, has submitted that the petitioner has no link with the said recovery of 2 kg of opium which has been allegedly recovered from the house of co-accused Baldev Singh inasmuch as it is not the case of the prosecution that the same was kept in the house of Baldev Singh by the petitioner. It is further submitted that there is absolutely no material to connect the present petitioner with the said recovery of 2 kg of opium.

This Court has heard learned counsel for the parties and has perused the paper book.

In the present case, the petitioner is in custody since 12.03.2022 and investigation is complete and challan has been presented and out of 13 prosecution witnesses, none have been examined as yet and thus, the conclusion of trial is likely to take time. The petitioner is stated to be not

involved in any other case. The polythene bag was in the hand of co-accused Baldev Singh even as per the prosecution case and not in the hand of the present petitioner. Even in case, the petitioner is also presumed to have been in the conscious possession of said polythene bag which was in the hand of co-accused Baldev Singh when the petitioner and said Baldev Singh were travelling in the car, then also, as per the prosecution case, the said polythene bag contained 1 kg of opium which is less than the stipulated commercial quantity which starts from 2.5 kg of opium. No further recovery has been effected from the present petitioner in the present case.

Keeping in view the abovesaid facts and circumstances, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate, subject to him not being required in any other case.

However, it is made clear that in case, any act is done by the petitioner to threaten the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

22.11.2022*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:-****Yes/No****Whether reportable:-****Yes/No**