

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

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**CRM-M-52437-2021
Date of decision: 03.02.2022**

MUKHTIAR SINGH

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE SANT PARKASH

Present : Mr. Ashok Kumar Khunger, Advocate
for the petitioner.

Mr. Tanvir Joshi, AAG, Punjab
for the respondent-State.

SANT PARKASH, J. (ORAL)

The case has been taken up for hearing through video conferencing.

Prayer in this petition filed under Section 439 of the Code of Criminal Procedure, 1973 is for grant of regular bail to the petitioner, in case, FIR No. 138 dated 22.10.2021 registered under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act') at Police Station Sadar Jalalabad, District Fazilka.

As per the prosecution version, on 22.10.2021 the police party on the basis of secret information apprehended the accused-petitioner while being in conscious possession of 11 Kg and 500 grams of Poppy Husk and case under the NDPS Act was registered against the petitioner.

The petition has been opposed by learned State Counsel.

However, no reply has been filed on behalf of respondent/State.

I have heard learned Counsel for the parties and gone through the case file.

Learned Counsel for the petitioner has argued that the petitioner has been falsely implicated in the present case. False recovery has been planted upon him. Mandatory provisions of the NDPS Act were not complied with. No independent witness was jointed at the time of alleged recovery. The petitioner is involved in two other cases under the NDPS Act but the petitioner is on bail in both the cases. The petitioner is in custody since 22.10.2021. Investigation of the case has been completed. Trial is likely to take long time. No useful purpose will be served by keeping the petitioner in custody. Therefore, the petitioner may be ordered to be released on regular bail.

On the other hand, learned State Counsel has submitted that the petitioner is accused of having committed serious offence. In view of the nature of accusation and gravity of the offence, the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

Learned State Counsel has sent Custody Certificate dated 02.02.2022, print out of which is taken on record.

A perusal of the Custody Certificate would reveal that the petitioner is involved in three other cases out of which two are under the NDPS Act and the petitioner is on bail in all the three cases.

Having considered the facts and circumstances of the case, nature of accusation, recovery of contraband from the petitioner falling in non-commercial category, custodial interrogation of the petitioner

not required for effecting any recovery and the fact that the trial is likely to take long time due to restrictions imposed to prevent spread of infection of Covid-19 but without expressing any opinion on the merits of case, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of personal and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

03.02.2022
kavneet singh

(SANT PARKASH)
JUDGE

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