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

CRM-M-53324-2021

Date of Decision: 14.03.2022

Baldev Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ashish Pal Kaushal, Advocate,
for the petitioner.

Mr. Sandeep Singh Deol, DAG, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

The petitioner is seeking regular bail in FIR No.131, dated 03.09.2020, under Sections 15/61/85 of the NDPS Act, registered at Police Station Khuin Sarwar, District Fazilka.

Learned counsel for the petitioner submits that neither the tractor nor the trolley attached to the said tractor, from which the alleged recovery of contraband was made, are owned by the petitioner and he was only taking a lift on the said tractor and trolley at the time when he was arrested. Learned counsel further submits that the petitioner was never in contact with the other co-accused, namely Bhajan Lal, who is the owner of the said tractor and trolley, which shows that the petitioner is falsely being implicated in the present case so as to show that the petitioner was in conscious possession of the said contraband allegedly recovered from the trolley in question. Learned counsel for the petitioner argues that as the petitioner is behind the bars since last one year and four months, coupled

with the fact that co-accused, namely Bhajan Lal, is the owner of the tractor and trolley in question, who allegedly ran away from the spot on seeing the police and has already been extended the concession of regular bail by a co-ordinate Bench of this Court while passing the order in CRM-M-41870-2020 on 08.02.2021, petitioner may kindly be extended the concession of regular bail, especially in view of the fact that the trial is likely to take some time to conclude due to the restrictive working of the Courts in view of Covid-19 pandemic.

Learned State counsel submits that as per the allegations, the co-accused, namely Bhajan Lal, ran away from the spot after seeing the police personnels and the petitioner was caught while sitting in the trolley, from where the alleged recovery of the contraband was effected. Learned State counsel further submits that during the investigation, nothing has come on record as of now that the petitioner was in touch with the other co-accused, namely Bhajan Lal, at any given point of time prior to the said recovery of the contraband was effected and further concedes the factum that the petitioner is not the owner of the tractor or the trolley in question and the owner of the said tractor and trolley, namely Bhajan Lal, has already been extended the concession of regular bail by a co-ordinate Bench of this Court.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Keeping in view the fact that the petitioner is not the owner of the tractor or the trolley in question and according to the petitioner, he was only taking a lift and was not driving the tractor but was sitting in the trolley at the time when he got arrested, coupled with the facts that during the

investigation, nothing has come on record as of now that the petitioner was ever in contact with the other co-accused, so as to *prima facie* establish that the petitioner had the knowledge of the contraband lying in the said trolley, and that the co-accused, namely Bhajan Lal, who is the owner of the said tractor and trolley, who is alleged to have ran away from the spot after seeing the police, is already on regular bail, a debatable question arises with regard to possession of the contraband concerned by the petitioner so as to invite Section 37 of the NDPS Act, hence no useful purpose will be achieved in keeping the petitioner behind the bars during the entire period of trial, keeping in view the fact that the trial is likely to take some time to conclude due to the restrictive working of the Courts in view of Covid-19 pandemic, especially when learned counsel for the petitioner has undertaken before this Court that the petitioner will maintain good conduct and will not influence the trial or any witnesses in any manner, the petitioner has made out a case for the grant of regular bail.

In view of the above and without commenting upon the merits of the case, it is directed that the petitioner be released on regular bail, subject to the satisfaction of the trial Court/Duty Magistrate concerned.

However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

14.03.2022

Apurva

(HARSIMRAN SINGH SETHI)
JUDGE

1. Whether speaking/reasoned : Yes

2. Whether reportable : Yes