

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

228

CRM-M-54575-2022 (O&M)
Date of decision: 01.12.2022

RAJ KUMAR ALIAS RAJU

....Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Ranbir Singh Sekhon, Advocate
for the petitioner.

Ms. Aditi Girdhar, AAG Haryana.

AMAN CHAUDHARY. J.

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in respect of FIR No.165 dated 19.05.2022, under Sections 15/61/85 of the NDPS Act, registered at Police Station Bhuna, District Fatehabad.

Learned counsel for the petitioner contends that 16 kg of poppy husk has been recovered from the polythene bag lying beneath the seat of the petitioner of the pick-up jeep, which is non-commercial as per the Schedule of the NDPS Act. He submits that there is no independent corroboration of the same and the mandatory provision of Section 50 of the NDPS Act has not been complied with. He further submits that the petitioner is in custody since 19.05.2022 and he is not involved in any other criminal case and the charges have yet not been framed and in all there are 14 witnesses. It is his further submission that co-accused has been granted bail by this Court vide order dated 04.11.2022.

Opposing the bail, learned State counsel on instructions from SI Mahender Singh submits that recovery is being effected from under the seat of the

petitioner. She further submits that with regard to non-compliance of the provisions of Section 50 of the NDPS Act is concerned, the said provisions are not applicable in the present case. However, she is unable to controvert the fact that petitioner is in custody since 19.05.2022; he is not involved in any other case; charges are yet to framed; in all there are 14 witnesses and co-accused has been granted bail by this Court.

I have heard learned counsel for the parties.

In view of the facts and circumstances of the case, in particular that the petitioner is in custody since 19.05.2022; he is not involved in any other case; charges are yet to framed; in all there are 14 witnesses and co-accused has been granted bail; the trial is likely to take a considerable time, his further detention behind bars would not serve any useful purpose, thus the present petition for grant of regular bail deserves to be allowed.

As a result, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to him not being required in any other case. The petitioner shall abide by the following conditions:-

1. The petitioner will not tamper with the evidence during the trial.
2. The petitioner will not pressurize/ intimidate the prosecution witnesses.
3. The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
4. The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.
5. The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/ her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.

- 6. The petitioner shall not in any manner misuse his liberty.
- 7. Any infraction shall entail in withdrawal of the benefit granted by this Court.
- 8. The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.
- 9. The petitioner shall deposit his passport, if any, with the Trial Court forthwith and in case, he does not have the passport, he shall furnish a specific affidavit in this regard.

It is made clear that in case of breach of any of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

In view of the above, this Court makes it clarified that the observations made herein above are limited for the purpose of present proceedings and would not be construed as any opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AMAN CHAUDHARY)
JUDGE

December 01, 2022

S.Sharma(syr)

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