

101+207

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

CRM-M-55201-2019 (O&M)

Date of decision : 13.09.2022

Gurdev Singh

...Applicant-Petitioner

Vs.

State of Haryana

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. D.N.Ganeriwala, Advocate
for the applicant-petitioner.

Mr. Sukhdeep Parmar, DAG, Haryana.

MANOJ BAJAJ, J.

**CRM-33915-2022, CRM-31628-2021 and
CRM-15114-2022**

Applications are allowed as prayed for.

Annexures P-3 to P-10 are taken on record.

Main case

Petitioner has filed this petition under Section 439 Cr.P.C for grant of regular bail pending trial in case FIR No.382 dated 04.09.2018 registered under Section 15 Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station City Mandi Dabawali, District Sirsa, who is in custody since his arrest on 04.09.2018.

The allegations in the FIR as noticed by the learned Additional Sessions Judge, Sirsa in the order dated 21.02.2019 are as under:-

“As per the case of the prosecution on 04.9.2018, a police party headed by Sukhdev Singh, CIA Staff, Dabwali, in government vehicle No.HR-24W-4302 being driven by EASI Zile Singh was present at the bus stand of village Masitan

on the road leading from Dabwali to Ellenabad for patrolling and Nakabandi where he received a secret information to the effect that Gurdev Singh son of Mukand Singh, caste Jat sikh, resident of Masitan is concealing the bags of poppy straw in a heap of wheat chaff just behind his Dhani constructed in his field and if an instant raid is conducted, he could be apprehended with the poppy straw. The information being reliable and believable, a notice u/s 42 of NDPS Act was prepared and sent to the DSP, Dabwali for information through constable Bhajan Lal. Thereafter, ASI Sukhdev Singh formed a raiding party and reached at the disclosed place and saw that one person was putting his hand in the heap of wheat chaff behind his Dhani, who on seeing the police party, got frightened and stood up. He was apprehended by the ASI with the help of the accompanying police officials. On enquiry, he disclosed his name as Gurdev Singh s/o Mukand Singh, resident of village Masitan. Thereafter, wheat chaff was removed from the heap of wheat chaff and 10 plastic bags of black colour were recovered and on weighment, each bag was found containing 20 kilograms of poppy straw (Doda Post).”

Learned counsel for the petitioner has argued that as per the prosecution, the petitioner was found in possession of 200 kgs. of poppy husk and after his arrest, the petitioner is confined in custody and only six witnesses so far out of total 15 witnesses have been examined by prosecution. He submits that the alleged recovery is from an open vacant plot and there is no evidence collected to connect the said plot or contraband with the petitioner. He submits that subsequently even his son, namely, Balraj Singh was also impleaded as an accused, but later on, he was found innocent. He submits that the petitioner is 60 years old, who is not involved in any other case, therefore, he be released on bail.

On the other hand, learned State counsel assisted by ASI Ranjeet Singh has opposed the prayer and argued that the recovered contraband falls in commercial quantity. He submits that the trial is likely to conclude in the near future as the remaining witnesses have been summoned for 17/18.10.2022.

However, it is not disputed that no other case, much less of similar nature is pending against the petitioner.

After hearing learned counsel for the parties and considering the above background as well as the custody of the petitioner, this Court is of the opinion that the conclusion of trial is likely to consume considerable time, as eight prosecution witnesses remain to be examined, therefore, further detention of the petitioner may not serve any useful purpose, who is presently confined in judicial custody after his arrest on 04.09.2018. Apart from it, the remaining prosecution witnesses are police officials and at present, there does not seem to be any possibility of their being won over.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

The petition is allowed.

(MANOJ BAJAJ)
JUDGE

13.09.2022

vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No