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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-811-2023
DECIDED ON: 17.04.2023

PARDEEP SINGH

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. J.S. Kang, Advocate for
Mr. K.P.S. Virk, Advocate for the petitioner.

Mr. Mohit Chaudhary, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

The instant petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in FIR No.178 dated 05.06.2021 under Section 15 of Narcotic Drugs and Psychotropic Substances Act, 1985 (Section 27-A, 29 NDPS Act, 120-B, 201 of IPC added subsequently) registered at Police Station Sadar Narwana, District Jind.

The contents of the FIR reproduced as under:-

*“To the SHO PS Sadar Narwana, District Jind Jai Hind.
Today, on 05.06.2021, I, ASI Neeraj Kumar no. 4/ Kurukshetra, HC Surendra Kumar no. 414, HC Rajesh Kumar no. 355/ Kurukshetra, HC Gurmel Singh no. 689/ Kurukshetra Haryana State Narcotics Control Bureau Unit Ambala riding in Government vehicle bearing registration no. HR 01 AR 0500 being driven by Ct. Surendra Singh No. 1472 am present on Kaithal Hisar Road, near Police Station Sadar Narwana, in relation to confidential work when secret informer gave information to I, ASI, that*

Pradeep Singh alias Thatta s/o Joginder Singh, resident of village Chhisra, district Gurdaspur Punjab drives a truck bearing registration no. RJ14 GJ 3077 and does illegal smuggling of poppy husk in his truck and even today he was going to Punjab via Narwana via Jind from Rajasthan side carrying a large quantity of poppy husk in his above mentioned truck and at this time he is sleeping in the cabin of his truck by parking his truck on the side near the overbridge Narvana on Jind Patran Road. If Pradeep Singh is raided and searched after apprehending him and his truck, then huge quantity of poppy husk can be recovered from his possession, which is a secret information of a reliable and respectable person. On which Shri Sadhu Ram HPS DSP Narwana was sent through PS Sadar Narwana by HC Gurmel Singh no. 689. That on the basis of secret information, offence under 15 NDPS Act is made out. On which constable Surendra Singh 1472 is being sent to PS Sadar Narwana for registration of FIR against Pradeep Singh. After registration of FIR, FIR no. be informed and the special report of the case be sent to the service of higher officials. Mr. Kewal Singh Inspector / Incharge Haryana State Narcotics Control Bureau Unit Ambala has been informed about sending another investigating officer for further investigation in the present case. I, ASI, am waiting for the arrival of alongwith accompanying colleagues, another investigating officer, At PS Sadar Narwana Kaithal Haryana Road Neeraj ASI Haryana State Narcotics Control Bureau Unit Ambala. Date 05.06.2021 time 02.00 AM"

Learned counsel for the petitioner vehemently contends that the petitioner has already suffered incarceration of 1 Year 10 Months and 03 days and he is not involved in any other case urging that he is not a habitual offender.

Notice of motion.

On the asking of the Court, Mr. Ashok Shahrawat, DAG, Haryana accepts notice and has filed custody certificate dated 17.04.2023, which is taken on record. According to which, the petitioner has undergone 1 year 10 months and 03 days of actual custody. However he contends that the petitioner is the main

accused who opened the seal of the drum and filled it with the poppy husk-contraband measuring 740 Kgs which is involved in the instant FIR.

The case of the petitioner is that rest of the 05 accused out of 07 stand released on anticipatory bail or regular bail by the High Court, including Ishwar Ram, Champa Lal, Ravinder Singh, Kalu Ram Ahir and Amarjit Singh. Another co-accused is still inside the judicial custody. It is also the case of the petitioner that the instant FIR has been registered at the instance of ASI Neeraj Kumar, alleged to be on patrolling duty and on the basis of secret information that the truck carrying poppy husk-contraband, bearing No. RJ-14-GJ-3077 which was coming from Rajasthan side, had apprehended the truck and thereafter recovery of 736 Kg 190 grams of poppy husk was effected from the said truck.

Learned counsel for the petitioner vehemently argued that the petitioner is first-time offender and is in judicial custody since last 01 year 10 months and 03 days. The challan has been filed and the conclusion of the trial is likely to take some time. Moreover, not even a single witness has been examined so far, out of 36 witnesses. He has further placed reliance on a judgment rendered by the Hon'ble Supreme Court in *Tofan Singh Vs. State of Tamil Nadu, (2021) 4 SCC 1 and State By (NCB) Bengaluru Vs. Pallulabid Ahmad Arimutta & Anr. 2022 Live Law (SC) 69.* So much so, it will be a matter of trial that the petitioner was actually involved as he was merely a driver of the truck owned by the company.

It is, however, not in dispute that the recovery of contraband is commercial in nature but no other incriminating substance has been put forth by the learned State counsel during the course of submission today except the

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submission that the custody of the petitioner is 1 year 10 months and 03 days as well as no witness has been examined so far out of total 36.

In view of the above and also taking into consideration the fact that the trial is likely to take some time, therefore, no fruitful purpose will be served by keeping the petitioner behind bars, the petitioner is not habitual offender, the petitioner is not directly involved with the said Poppy husk, the petitioner is directed to be released on regular bail on furnishing bail and surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate concerned.

The present petition is, therefore, allowed.

(SANDEEP MOUDGIL)
JUDGE

17.04.2023

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