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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M- 3171-2023 (O&M)

Date of Decision: 28.04.2023

Nachhattar Singh

... Petitioner

V/s.

State of Punjab

... Respondent

CORAM: **HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present : Mr. Shiv Charan Bhola, Advocate
for the petitioner.

Mr. Madhur Sharma, AAG, Punjab.

DEEPAK MANCHANDA, J.(Oral)

Petitioner has prayed for grant of regular bail under Section 439 Cr.P.C. in case FIR No. 50 dated 06.06.2020, under Sections 15, 29, 61 and 85 of the NDPS Act registered at Police Station Ajitwal, District Moga, Punjab, who is alleged to have possessed contraband of 75 kg of poppy husk.

Learned counsel for the petitioner contends that the petitioner, who is 81 years old man, is in custody since 07.06.2020 and has undergone more than 02 years 10 months and 15 days of custody. He submits that the petitioner has been falsely implicated in the present case as the alleged recovery from the house of the petitioner is a planted one. He further

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submits that there are no other antecedents and the challan stands presented and the charges have been framed and out of total 19 witnesses, only 02 witnesses have been examined till date. Learned counsel for the petitioner also contends that though the recovery is commercial but it has not been effected from the conscious possession of the petitioner rather its a planted recovery and the petitioner is under custody since long time in the present case and the conclusion of trial will take sufficient time, therefore, prayer is made for the petitioner to be enlarged on bail.

Custody certificate has been filed by the respondent-State, which is taken on record. Even though learned counsel appearing on behalf of respondent-State, on instructions from the Investigating Officer, opposes the grant of regular bail to the petitioner, while submitting that the offence alleged against the petitioner is serious in nature, however he does not dispute the fact that challan stands presented and there is no other case pending against the petitioner.

I have heard learned counsel for the parties.

Petitioner is in incarceration since 07.06.2020.

It is not a case made out by the respondent-State that in case concession of bail is granted to the petitioner, he would hamper the course of free and fair trial. Further, since the petitioner has undergone custody of 02 years 10 months and 15 days and the challan stands presented and the charges have been framed and there are no other antecedents and the trial would take sufficient time, no useful purpose would be served in keeping the petitioner behind bars

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 concerned on the following conditions:-

- 1. *he shall appear before the Court on each and every date of hearing;*
- 2. *he shall not give any threat or intimidation to the prosecution witnesses;*
- 3. *he shall not indulge in any criminal activity.*

In addition to that the trial Court may impose any term and condition found suitable to ensure that the petitioner does not abscond and interfere in the trial.

In case the petitioner violates any terms and conditions on which the bail has been granted to him, the prosecution would be entitled to apply for cancellation of his bail.

The petition is allowed accordingly.

(DEEPAK MANCHANDA)
JUDGE

28.04.2023
seema

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes /No</i>