

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M- 4425-2022 (O&M)
Date of Decision: 01.06. 2023

Major Singh

... Petitioner

V/s.

State of Punjab

... Respondent

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

Present : Mr. P. S. Dhaliwal, Advocate
for the petitioner.

Mr. Digvijay Nagpal, AAG, Punjab.

DEEPAK MANCHANDA, J.(Oral)

Petitioner has prayed for grant of regular bail under Section 439 Cr.P.C. in case FIR No. 62 dated 19.05.2021, under Sections 15, 25, 29 of NDPS Act registered at Police Station Dhanaula, District Barnala, who with other co-accused is alleged to have possessed 250 kg of poppy husk containing in 10 different plastic bags (each containing 25 kg) from two different cars, which falls in the commercial segment under the NDPS Act.

Learned counsel for the petitioner contends that the petitioner is in custody since 20.05.2021 and has been falsely implicated in the present case as the alleged recovery of 150 KGs., POPPY HUSK had been affected from the car no. HR-70D-2325

MAKE Zenta and not from the possession of the petitioner, where petitioner was sitting on the conductor seat and neither he is owner nor is the driver of the car. Further, the alleged contraband was sent to FSL with seal CS but when same was recovered it was sealed with LS, which shows that petitioner's false implication.

He further contends that there is non-compliance of the section 42 and 50 of the act where no information was given to the high officer before arresting the petitioner nor proper search has been conducted and the said recovery has been planted. He submits since the challan stands presented and the charges have been framed and out of total 21 prosecution witnesses 03 witnesses have already been examined, 02 witnesses have been given up and apart from this matter petitioner is involved in 1 more case the petitioner has no other antecedents and the conclusion of trial will take sufficient time, and moreover other co accused namely Rani Kaur has already been granted concession of anticipatory bail vide order dated 27/9/2021 in CRM-M No.40156/2021

Learned counsel for the petitioner contends that the petitioner is in custody since 20.05.2021 and has been falsely implicated in the present case. He further submits that the challan stands presented and the charges have been framed and out of total 21 prosecution witnesses 03 witnesses have already been examined and 02 witnesses were given up .

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 and 01 case was also registered against the petitioner, however he does not dispute the fact that challan stands presented and charges have been framed, and other co accuse has already been granted concession of Anticipatory bail.

I have heard learned counsel for the parties.

Petitioner is incarceration since 20.05.2021.

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 challan stands presented and the charges have been framed and out of total 21 witnesses, 03 witnesses have already been examined and 2 have been given up, there is no other case 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.

The Court accepting bonds would ensure that two local sureties who are financially sound having immovable properties within jurisdiction of the district furnish the bonds.

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

01.06.2023
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Whether speaking/reasoned	Yes
Whether Reportable	Yes /No