

210
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-5277-2023 (O&M)
Date of Decision: 07.07.2023

Resham Singh

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. D.S. Bhinder, Advocate, for the petitioner.

Mr. Rajiv Verma, DAG, Punjab.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in FIR No.89 dated 28.08.2022, under Section 15 of NDPS Act (Section 15 (C) /29 of NDPS Act added later on), registered at Police Station Bilga, District Jalandhar.

2. Learned counsel for the petitioner has submitted that the petitioner is in custody from 28.08.2022 which is almost 11 months and now the charges have been framed. He submitted that even as per the prosecution, there was an alleged recovery of 20 kgs. of poppy husk from the petitioner and it was thereafter during the investigation on his disclosure, the police confiscated 100 kgs. of poppy husk from the other co-accused, namely, Gurwinder Singh. He submitted that so far as the present petitioner is concerned, the total recovery does not fall in the category of commercial

quantity as defined under the NDPS Act and even as per the FIR, the weight of the poppy husk was alongwith the plastic bag. He has therefore prayed for the grant of regular bail.

3. On the other hand, Mr. Rajiv Verma, DAG, Punjab has stated that so far as the custody of the petitioner is concerned, the same is correct but he has opposed the grant of bail on the ground that it is a case where the petitioner is a habitual offender and while referring to the status report filed by the State, he submitted that the petitioner is involved in as many as six more cases out of which four pertain to NDPS Act, one under Excise Act and one under Prison Act out of which he has been convicted under one of the cases under the NDPS Act which was filed against the petitioner under Sections 15, 61, 85 of NDPS Act, registered at Police Station Mehatpur, Jalandhar (Rural) but in one case he was acquitted and in the remaining cases, he is still under trial. He submitted that in view of the aforesaid position, the mere fact that the recovery from the petitioner was only 20 kgs of poppy husk would not entitle the petitioner for grant of regular bail.

4. I have heard the learned counsel for the parties.

5 The petitioner is in custody for 11 months. The petitioner is involved in as many as six more cases as so described in para No.11 of the status report filed by the State and in one of the cases, he has since been convicted. The total quantity recovered from the petitioner is 20 kgs of poppy husk which does not fall in the category of commercial quantity and on his disclosure, there was a recovery of 100 kgs of poppy husk from the house of the other co-accused.

6. Therefore considering the totality of facts and circumstances of the case, this Court does not deem it fit and proper to grant regular bail to the

petitioner.

7. Consequently, the present petition is dismissed.
8. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

07.07.2023

rakesh

(JASGURPREET SINGH PURI)
JUDGE

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