

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

**CRM-M-5530-2022
Date of decision : 23.02.2023**

Jasvir Singh @ Nikka

.....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. J.S. Sandhu, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

Prayer in the present petition is for grant of regular bail to the petitioner in case FIR No.143 dated 03.10.2020, under Sections 15(c), 22(c) and 29 of NDPS Act, 1985, registered at Police Station Khuian Sarwar, District Fazilka, Punjab.

Status report by way of affidavit of Mr. Sukhwinder Singh Brar, PPS, Deputy Superintendent of Police, Sub-Division Abohar, District Fazilka, filed by learned State counsel is taken on record.

As per facts of the case, the police during patrolling, arrested one Karamjeet Singh @ Kamma along with tempo truck bearing registration No.PB-05Q-8703 and after conducting the formalities under the NDPS Act, search of the tempo was conducted wherein 27 plastic bags were recovered, out of which, 24 bags containing poppy husk were recovered and remaining 03 bags containing intoxicant tablets weighing each bag 25 kg and the total intoxicating tablets were found to be 6500 tablets. The samples were taken and sent to the FSL.

The accused Karamjeet Singh @ Kamma was arrested on spot. He made disclosure statement about the petitioner that the contraband was to be supplied to Jasvir Singh @ Nikka. On the basis of disclosure statement made by accused Karamjeet Singh @ Kamma, petitioner was arrested on 31.10.2020. Petitioner approached the learned Judge, Special Court, Fazilka praying for grant of regular bail. However, after hearing counsel for both the sides, learned Judge, Special Court, Fazilka declined the same vide order dated 16.08.2021. Aggrieved by the same, petitioner has approached this Court by way of filing the present petition.

Learned counsel for the petitioner has vehemently contended that neither the petitioner has been named in the FIR nor there is any recovery effected from him. He has submitted that the only allegation against the petitioner is that during investigation, the main accused Karamjeet Singh @ Kamma, who was arrested with the contraband, made a disclosure statement about the petitioner. He has further submitted that the disclosure statement made by co-accused is not an admissible evidence and thus, the false implication of the petitioner is writ large. He has submitted that the petitioner is behind bars since 31.10.2020 and till date there is no progress in the trial. He submits that in the facts and circumstances of the case, petitioner deserves to be granted bail.

Learned State counsel has opposed the submissions made by counsel for the petitioner. He has submitted that the petitioner is a habitual offender and besides this case, he has been prosecuted in six other cases, out of which, he has been convicted in four cases. He submits that even if the petitioner is granted bail in this case, he would remain behind

bars as he has to serve the sentence already imposed upon him by the trial Court in other cases. He further submits that in the facts and circumstances of the case, petitioner deserves to be granted bail.

I have heard counsel for the parties and perused the record.

Evidently, petitioner in the present case has been named during investigation in the disclosure statement made by co-accused Karamjeet Singh @ Kamma. Petitioner was neither named in the FIR nor there is any recovery. However, petitioner on the basis of disclosure statement, was arrested on 31.10.2020. After investigation, challan is presented, charges were framed and as on date. As submitted by learned State counsel on instructions, out of 20 prosecution witnesses, only 01 witness has been examined by the prosecution. As per custody certificate, petitioner is convicted in some other cases as well. However, his sentence would run in those cases after grant of the bail in the present case.

The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. This Court would refrain itself from commenting anything on the merits of the case. The trial of the case will take sufficiently long time. Keeping in view the overall facts and circumstances that the petitioner in this case is behind bars from 31.10.2020 and he has completed actual sentence of 02 years, 03 months and 22 days as on 23.02.2023, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety

bonds to the satisfaction of the concerned trial Court/Duty Magistrate. If the petitioner does not furnish the bail bonds within seven days after passing of this order, then his custody period would not be counted in this case.

23.02.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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