

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M-5259-2023 (O & M)****Date of decision: 07.02.2023**

Badal Singh @ Baggi

.... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Parminder Singh Sekhon, Advocate,
for the petitioner.

Ms. Navreet Kaur Barnala, AAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in case FIR No.60 dated 26.04.2022 under Sections 18-C of the NDPS Act registered at Police Station Sangat, District Bathinda.

2. The brief facts of the case are that while the police party was on patrolling duty a white coloured car came from Dabwali side. It was signalled to stop for checking. There were two persons in the car. The driver of the car disclosed his name as Ladwinder Singh @ Laddi (since granted bail vide order dated 23.01.2023 passed in CRM-M-44383-2022) and the person sitting on the conductor seat disclosed his name as Badal Singh @ Baggi (petitioner). One black coloured polythene was seen lying between both of them near the hand brake. On the search and seizure of the same, after following the proper procedure as envisaged under the NDPS Act, it was found to contain 2 kgs. 700 grams of opium.

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case by the police officials. The recovery has been planted upon the petitioner after mixing the Bourn Vita, other biscuits and cough syrups. Since the recovery was of contraband marginally above the commercial quantity i.e. 2 kgs. 500 grams of opium, the petitioner was entitled to the grant of bail, moreso, when his co-accused, namely, Ladwinder Singh @ Laddi, has been granted the concession of bail vide order dated 23.01.2023 (Annexure P-6).

4. The learned counsel for the State, on the other hand, contends that the petitioner is not entitled to the grant of bail as commercial quantity of contraband was recovered from the vehicle in which the petitioner was sitting on the conductor seat. The offences of this kind are on the rise and no sympathy ought to be shown to the petitioner. Moreso, when Section 37 of the NDPS Act would be attracted. He, however, admits that Ladwinder Singh @ Laddi-the co-accused of the petitioner, has been granted bail vide order dated 23.01.2023.

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

6. In the case of '***Hari Yadav @ Haiya versus State of Punjab (CRM-M-37645-2021)***', where the recovery was of 2 kgs. 600 grams of opium, the petitioner was granted the concession of bail vide order dated 11.02.2022. In the case of '***Jang Kanwar Versus State of Punjab (CRM-M-53415-2021)***', where the recovery was of 2 kgs. 700 grams of opium, the petitioner was granted the concession of bail vide order dated 19.01.2022. Similarly, in the cases titled as '***Shankar Prashad Chanau Versus The State of Punjab, CRM-M-24090-2020, decided on 27.08.2020, Gurpreet Kumar***

Sukhchain Singh @ Manga Versus State of Punjab, CRM-M-7857-2022, decided on 04.04.2022, Salim Versus State of Haryana, CRM-M-42436-2020, decided on 24.02.2021, Gagandeep Versus State of Punjab, CRM-M-3055-2021, decided on 27.01.2021, Gurpreet Singh @ Gopi Versus State of Punjab, CRM-M-41039-2019, decided on 26.02.2020 and Dalbara Singh Versus State of Punjab, CRM-M-47880-2022 decided on 16.01.2023,

where the recovery from the accused was marginally above the commercial quantity, the Court granted bail to the accused therein.

7. In the present case, the alleged recovery from the petitioner is 2 kgs. 700 grams of opium, which is marginally above the commercial quantity of 2 kgs. 500 grams. The petitioner is a first time offender with no other case under the NDPS Act registered against him. In this situation, the provisions of Section 37 of the NDPS Act can be relaxed to an extent and the case of the petitioner can be considered for the grant of bail, moreso, when he is in custody since 26.04.2022, none of the 13 prosecution witnesses have been examined so far and his co-accused, namely, Ladwinder Singh @ Laddi has been granted the concession of bail vide order dated 23.01.2023 (Annexure P-6).

8. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Badal Singh @ Baggi is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. The petitioner shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that he is not involved in any other case except the present one.

11. In addition, the petitioner (or someone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from Trial without sufficient cause.

(JASJIT SINGH BEDI)
JUDGE

February 07, 2023
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No