

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

**CRM-M-5854-2023 (O&M)
Date of decision: 17.02.2023**

Sandeep Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Gourav Verma, Advocate
for the petitioner.

Ms. Rajni Gupta, Addl. A. G., Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

This is the third petition that has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 453 dated 17.11.2020, registered under Section 15 of the Narcotic Drugs & Psychotropic Substances Act, 1985 at Police Station Pundri, District Kaithal.

The earlier two petitions, bearing CRM-M-44468-2021 and CRM-M-51217-2022, were dismissed as withdrawn on 24.01.2022 and 30.01.2023, respectively.

Learned counsel for the petitioner submits that the new ground for filing the present petition is that the petitioner is in judicial custody for the last more than 02 years and 02 months; he is not involved in any other case and out of total 11 prosecution witnesses, only 04 witnesses have been examined so far and the conclusion of trial will still take a long time.

Learned counsel for the petitioner submits that as per

allegations in the FIR, registered on a secret information that the petitioner is selling poppy straw by bringing it from outside the State, an information was sent to the police station and thereafter, a barrier was laid and a car, bearing registration number HR-08-AA-9650, was stopped. On inquiry, the driver disclosed his name as 'Sandeep Kumar' i.e. the petitioner herein and on checking the rear seat of the car, 05 black colour plastic bags were found. Thereafter, the accused was given a notice under Section 50 of the NDPS Act and a Gazetted Officer was called at the spot and recovery of 200 Kgs. and 750 grams of poppy straw was effected.

Learned counsel for the petitioner submits that it will be a matter of trial whether a proper procedure was followed or not and considering the long custody of the petitioner as well as the fact that the conclusion of trial is likely to take a long time as out of total 11 prosecution witnesses, only 04 witnesses have been examined so far, the petitioner may be enlarged on regular bail.

Learned State counsel has filed the custody certificate and has not disputed the factual position. As per custody certificate, the petitioner is in judicial custody for the last 02 years, 02 months and 27 days and he is not involved in any other case.

After hearing learned counsel for the parties, without commenting anything on merits of the case, considering the fact that the petitioner is in long judicial custody; he is not involved in any other case; conclusion of trial is likely to take some time and also in view of judgment of the Hon'ble Supreme Court in ***Satender Kumar Antil Vs. Central Bureau of Investigation and anr., SLP (Crl.) No.5191 of 2021***, decided on

11.07.2022, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

17.02.2023

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No