

2023:PHHC:098620

IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

210

CRM-M No.6941 of 2023  
Date of Decision: 01.08.2023

Ajay Pal

...Petitioner

Versus

State of Punjab

...Respondent

**CORAM:** ***HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA***

Present:- Mr. G.S. Kaura, Advocate  
for the petitioner.

Mr. Rajiv Verma, DAG, Punjab  
for the respondent-State.

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**MEENAKSHI I. MEHTA, J. (Oral)**

By way of the instant petition, the petitioner has made the 2<sup>nd</sup> attempt to seek the relief of regular bail in the criminal case arisen out of the FIR bearing No.132 dated 27.08.2021 registered at Police Station Garhshankar, District Hoshiarpur, under Section 15 of the NDPS Act, as the petition bearing ***CRM-M No.53594 of 2021***, as filed by him earlier for seeking the same relief, had been dismissed by this Court vide the order dated 14.09.2022, for its having been withdrawn.

2. Shorn and short of unnecessary details, the allegations, as levelled by the prosecution against the petitioner in the present case, are that while the police party headed by the SHO, Police Station Garhshankar, was on its way from Village Rawalpindi towards the river Bridge on Banga

Road in the Government vehicle, the police officials noticed that two Swift Cars bearing registration Nos.PB-32-T-1500 and PB-37-3019, had been parked near the Bridge and some persons were unloading heavy jute bags from the same but on seeing the police party, they escaped from the spot, along-with their vehicles, while hitting the said Government vehicle. The police party found one jute bag, containing 20 kg poppy-husk, as left by the occupants of the Cars at the spot. Some of the police officials chased the above-mentioned Cars and saw one of those Cars, bearing registration No. PB-32-T-1500, having been parked at the Bus Stand of Village Ishpur, with four bags loaded therein and each bag contained 20 kg poppy-husk. The said Car was found to be belonging to the petitioner and he is also alleged to have suffered the disclosure statement regarding the said contraband.

3. Reply (by way of the affidavit of the Deputy Superintendent of Police, Sub-Division Garhshankar, District Hoshiarpur), along-with Annexure R-1, has already been filed on behalf of the respondent-State.

4. I have heard learned counsel for the petitioner as well as learned State counsel in the instant petition and have also gone through the file carefully.

5. Learned counsel for the petitioner contends that the alleged occupants of the Cars were neither nabbed nor identified at the spot and the petitioner has been falsely implicated in the present case subsequently and the disclosure statement, as stated to have been suffered by him, does not suffice at all to link him with the alleged commission of the offence and moreover, he is behind the bars since the date of his arrest, i.e 13.10.2021

and in these circumstances, he deserves the relief, as prayed for in the instant petition.

6. Per contra, learned State counsel argues that the quantity of the poppy-husk, as recovered in the present case, falls within the category of the '*commercial quantity*' and therefore, Section 37 of the NDPS Act is applicable to this case and hence, the instant petition be dismissed.

7. As regards the contention qua none of the alleged occupants of the Cars in question having been nabbed or identified at the spot, this Court cannot lose sight of the fact that it has specifically been deposed in Paras No.5 & 6 in the said Reply that the Car bearing registration No.PB-32-T-1500 belongs to the petitioner and it had been taken into possession earlier also, in connection with another criminal case as registered at PS Puranashala, District Gurdaspur, vide FIR No.43 dated 05.07.2019 under Section 15 of the NDPS Act and he (petitioner) had got it released through the Court order. The petitioner has not come forward with any fair, candid and plausible explanation qua the involvement of his afore-said Car in the alleged commission of the crime in the present case. Even otherwise, the above-discussed contention can and shall be looked into and adjudicated upon by the trial Court at the appropriate stage after appreciating and evaluating the evidence, as may be led on the record during the course of the trial and the same cannot be decided at this stage.

8. So far as the contention regarding the alleged disclosure statement of the petitioner is concerned, the evidentiary value of the same would again be a subject matter for consideration and determination by the

trial Court, at the relevant stage, on the basis of the evidence as would be adduced on the record during the trial proceedings.

9. Concededly, the quantity of the poppy-husk, i.e 100 kg, as allegedly recovered in this case, falls within the category of '*commercial quantity*', inviting the rigours of Section 37 of the NDPS Act. It being so, mere afore-mentioned period of the incarceration of the petitioner cannot be construed to be a cogent and sufficient ground to grant the relief of the regular bail to him.

10. Keeping in view the above-discussed facts and circumstances as well as the gravity of the offence as alleged to have been committed by the petitioner, this Court is of the considered opinion that he (petitioner) does not deserve the relief of regular bail. Resultantly, the petition in hand stands dismissed accordingly.

(MEENAKSHI I. MEHTA)  
JUDGE

01.08.2023  
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*Whether speaking/reasoned:* Yes  
*Whether Reportable:* Yes