

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

239

**CRM-M-8299-2023
Date of Decision: 23.03.2023**

Hare Ram Parsad

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. P.S. Sekhon, Advocate
for the petitioner.

Mr. Harjinder Singh Sidhu, AAG, Punjab.

HARSH BUNGER J. (ORAL)

Present petition is filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.135 dated 29.07.2021 registered under Section 20(B) (ii) (c) of NDPS Act, 1985, at Police Station Sangat, District Bathinda.

Succinctly, facts of the case are that the petitioner was apprehended by the police party headed by SI Major Singh and contraband (Ganja) was allegedly recovered from the possession of the petitioner which when weighed with plastic bag came out to be 20 kg.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the case. He is resident of State of Uttar Pradesh and he is a poor labourer. It is submitted by learned counsel for the petitioner that petitioner is in custody since 29.07.2021 and the total custody of petitioner is more than one year and seven months.

Learned counsel for the petitioner submits that the alleged

recovery falls in the category of non-commercial quantity and rigors of Section 37 of the NDPS Act are not attracted. He next submits that the investigation of the case is complete, challan has been presented on 15.11.2021 and even charges have been framed on 25.07.2022. He further submits that the mandatory provisions of NDPS Act were not complied with as no offer under Section 50 of the Act was given to the petitioner. It is further stated that the petitioner herein is ready to abide by all the conditions as may be imposed by this Court or by the trial Court, accordingly prayer for grant of regular bail is made.

Custody Certificate dated 21.03.2023 of the petitioner is filed by learned State counsel in Court today, which is taken on record, subject to all just exceptions.

Learned State counsel opposes the plea of petitioner for grant of regular bail on the ground of seriousness of the offence, however, learned State counsel does not dispute the fact that the alleged recovery is non-commercial and the challan has been presented (in this case) on 15.11.2021 and even charges have been framed on 25.07.2022. It is also conceded by learned State counsel that as per custody certificate, the total custody of petitioner is more than one year and seven months.

I have heard learned counsel for the parties and perused the paper book as well as the custody certificate of petitioner handed over by learned State counsel, in Court today.

As per custody certificate dated 21.03.2023, the petitioner has already undergone more than one year and seven months of custody. The investigation in the matter is complete and the challan stands presented on 15.11.2021 and even charges have been framed on 25.07.2022. The trial is likely to take long time and no useful purpose would be served by keeping

the petitioner behind bars. Moreover, the alleged recovery of 20 kg. Ganja (with plastic bag) would fall in the category of non-commercial quantity and bar of Section 37 of the NDPS Act is not attracted.

Keeping in view the aforementioned circumstances, the instant petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing requisite bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate concerned. However, the concerned Station House Officer shall be informed about the release of petitioner and the petitioner shall inform the concerned Station House Officer about his address at which he intends to reside during the pendency of case/trial and any change in the address shall be communicated to the concerned Station House Officer, forthwith. The petitioner would also furnish his telephone number to the concerned Station House Officer. He would also furnish his undertaking to the effect that he will not indulge in any illegal activity. The petitioner shall also appear before the concerned Police Station/Station House Officer on every alternate Monday till the conclusion of trial.

Nothing expressed hereinabove shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for bail at this stage.

The petition is accordingly disposed of.

23.03.2023

D.Bansal

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No