

217

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

**CRM-M-9540-2023
DECIDED ON: 18.04.2023**

JASWINDER KAUR @ BINDER

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. B.R. Rana, Advocate
for the petitioner.

Mr. Mohit Chaudhary, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

The instant petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in FIR No.270 dated 17.09.2022 under Section 15 of Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Phillaur, District Jalandhar.

Learned counsel for the petitioner vehemently contends that the petitioner has already suffered incarceration of 07 Months and he is not involved in any other case urging that he is not a habitual offender.

Notice of motion.

On the asking of the Court, Mr. Mohit Chaudhary, AAG, Punjab accepts notice and has filed custody certificate dated 17.04.2023, which is taken on record. According to which, the petitioner has undergone 07 months of actual custody. However he contends that the petitioner is the main accused from whom

poppy husk-contraband measuring 60 Kgs has been recovered which is involved in the instant FIR.

Learned counsel for the petitioner contends that not even a single witness has been examined out of 19 witnesses. Petitioner has spend 7 months behind the bars and charge has been framed on 24.03.2023. Clearly depicting that the trial is likely to take long time and quantity of contraband is over and above i.e. 10kg in excess.

The case of the petitioner is that rest of the 02 accused out of 04 stand released on anticipatory bail or regular bail by the High Court, including Kamaljit Kaur and Gurjit Singh. It is also the case of the petitioner that the instant FIR has been registered at the instance of ASI Desh Raj, alleged to be on patrolling duty and on the basis of secret information that the vehicle carrying poppy husk-contraband, bearing No. PB-01-P-0129 had apprehended the vehicle and thereafter recovery of 60kgs of poppy husk was effected from the said vehicle.

Learned counsel for the petitioner vehemently argued that the petitioner is first-time offender and is in judicial custody since last 07 months. The challan has been filed and the conclusion of the trial is likely to take some time. Moreover, not even a single witness has been examined so far, out of 19 witnesses. He has further placed reliance on a judgment rendered by the Hon'ble Supreme Court in **Tofan Singh Vs. State of Tamil Nadu, (2021) 4 SCC 1 and State By (NCB) Bengaluru Vs. Pallulabid Ahmad Arimutta & Anr. 2022 Live Law (SC) 69.**

It is, however, not in dispute that the recovery of contraband is commercial in nature but no other incriminating substance has been put forth by

the learned State counsel during the course of submission today except that the custody of the petitioner is 07 months.

In view of the above and also taking into consideration the fact that the trial is likely to take some time, therefore, no fruitful purpose will be served by keeping the petitioner behind bars, the petitioner is not habitual offender, the petitioner is not directly linked to the said Poppy husk and trial is also likely to take long time as out of 19 total witnesses, none has been examined so far by the prosecution, the petitioner is directed to be released on regular bail on furnishing bail and surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate concerned.

The present petition is, therefore, allowed.

(SANDEEP MOUDGIL)
JUDGE

18.04.2023
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No