

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-11213-2023 (O&M)
Date of Decision:-08.08.2023

Shamsher Singh

... Petitioner

Versus

State of Haryana

... Respondent

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CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

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Present:- Mr. Amit Choudhary, Advocate
for the petitioner.

Mr. Neeraj Sheoran, DAG, Haryana.

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KARAMJIT SINGH, J. (Oral)

1. Prayer is for grant of regular bail in case having FIR No.27 dated 30.01.2022 registered under Sections 18, 27-A of NDPS Act, at Police Station City Safidon, District Jind.
2. The allegations in nut-shell are that on 30.1.2022, the petitioner was apprehended by the police while he was driving car No.HR-80-D-6780 and 1.530 kg of opium was recovered from beneath his seat and another 1.520 grams of opium was recovered from another occupant of car namely Ram Mehar, which was placed in his lap.

3. The counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case and he is in custody since last 1 year and 6 months and is having no criminal history and it will take considerable time for the trial to conclude. The counsel for the petitioner further submits that alleged recovery effected from the petitioner cannot be clubbed with that of co-accused Ram Mehar and in this regard, counsel for the petitioner placed reliance upon **Amarsingh Ramjibhai Barot vs. State of Gujarat, 2005 AIR (SC) 4248** and the decision of the Coordinate Bench of this Court in **CRM-M-17683-2019 titled as Manoj Kumar vs. State of Punjab** decided on **22.7.2019**.
4. The present petition is resisted by State counsel, who submits that total recovery effected from the car driven by the petitioner falls under commercial quantity and thus rigors of Section 37 of NDPS are applicable in the present case. However, the State counsel on instructions from ASI Wazir Singh has not disputed the fact that the petitioner is in custody for the last 1 year and 6 months and till date only 8 witnesses have been examined out of 17 witnesses on behalf of the petitioner and the next date of hearing before the trial Court is 26.8.2023. The State counsel has also not refuted the fact that petitioner is having no criminal history.
5. I have considered the submissions made by counsel for the parties.
6. In the light of the case laws referred above, it is a moot point as to whether the recovery effected from the petitioner and co-accused Ram Mehar could be clubbed together to consider it as a case relating to

recovery of commercial quantity of contraband. Admittedly, the petitioner is in custody for last 1 year and 6 months and it will take considerable time for the trial to conclude and further the petitioner is having no criminal history. In the given circumstances, as it will take considerable time for the trial to terminate, so no fruitful purpose is going to be served by prolonging judicial custody of the petitioner for indefinite period.

7. Thus, without commenting on the merits of the case, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail and surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate concerned.

08.08.2023
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No