

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-11567-2023

Date of Decision: 27.4.2023

Govind Dudi

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. G.S.Sandhu, Advocate  
for the petitioner.

Mr. C.L.Pawar, Addl. AG, Punjab.

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**KARAMJIT SINGH, J.**

Prayer in the present petition under Section 439 of Code of Criminal Procedure is for grant of regular bail to the petitioner in case FIR No.0199 dated 18.12.2022 registered for the offences punishable under Sections 18(C) of NDPS Act at Police Station Kabarwala, District Sri Muktsar Sahib.

The allegations in nuthsell are that petitioner-Govind Dudi and co-accused Govind Ram were arrested by the police on 18.12.2022 and 500 grams of Opium was recovered from each of them.

Counsel for the petitioner *inter alia* submits that the petitioner is lodged in custody since 18.12.2022 and after completion of investigation, challan has been presented. He further submits that aforesaid 500 grams of Opium which is stated to be recovered from possession of the petitioner comes under non-commercial quantity and thus, is not covered under rigors of Section 37 of NDPS Act. He further submits that the petitioner is having

no criminal history and that co-accused Govind Ram is already enlarged on regular bail by the learned trial Court vide order dated 1.2.2023 (Annexure P-2).

Present petition is resisted by the State counsel who submits that in total, 1 kg of Opium was recovered from conscious possession of the petitioner and co-accused Govind Ram by the police on 18.12.2022. State counsel on instructions from ASI Manjit Singh has not disputed the fact that out of said 1 kg. of Opium, weight of Opium which was recovered from conscious possession of the petitioner is 500 grams. He has also not disputed the fact that co-accused is already granted regular bail by the learned trial Court vide Annexure P-2 and that the aforesaid recovery comes under non-commercial quantity and that the petitioner is not involved in any other case under NDPS Act.

I have considered the submissions made by the counsel for the parties.

As per prosecution case, in the present case, 500 grams of Opium was recovered from possession of the petitioner while another 500 grams of Opium was recovered from possession of co-accused Govind Ram who is already enlarged on bail by the Court below vide order Annexure P-2. The aforesaid recovery of Opium comes under non-commercial quantity and thus, embargo provided under Section 37 of NDPS Act is not applicable to the instant case. Further, the petitioner is having no criminal history under NDPS Act and is in custody for the last more than 4 months and on conclusion of investigation, challan has been presented and charges are framed but the trial is at its initial stage. Thus, no useful purpose is going to be served by keeping the petitioner in custody for any further

period.

In view of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

( KARAMJIT SINGH )  
JUDGE

April 27, 2023  
Paritosh Kumar

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |