

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

214

CRM-M-15317 of 2023

Date of Decision:10.04.2023

Shamsher Singh @ Shera

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Satnam Singh Gill, Advocate, for the petitioner.
Ms. Nidhi Garg, AAG, Haryana

JASGURPREET SINGH PURI, J. (Oral)

The present is a third petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in FIR No.121 dated 27.02.2020, under Section 18 of the NDPS Act, 1985, registered at Police Station Pehowa, District Kurukshetra.

It is submitted by the learned counsel for the petitioner that the petitioner is in custody from 27.02.2020 which is more than three years and the allegations against the petitioner and the other co-accused namely Malkiat Singh were that they were carrying 2 kgs. and 800 grams of opium from whom the alleged confiscation was made. He submitted that the aforesaid co-accused namely Malkiat Singh who is at parity with the petitioner has been extended the benefit of bail by the Hon'ble Supreme Court in SLP (CrI.) No.12610 of 2022 (Annexure P-3). He submitted that in view of the aforesaid position, the petitioner may also be considered for grant of regular bail.

On the other hand, Ms. Nidhi Garg, learned AAG, Haryana has

submitted that it is correct that the petitioner has faced incarceration for more than three years. She has also stated that it is also correct that the other co-accused has been granted bail by the Hon'ble Supreme Court. She has however submitted that the petitioner is involved in one more case under the NDPS Act.

I have heard learned counsel for the parties.

The petitioner has already faced incarceration for more than three years. The other similarly situated co-accused who is at parity with the petitioner namely Malkiat Singh has already been granted bail by the Hon'ble Supreme Court vide Annexure P-3. The mere fact that the petitioner is involved in one more case under the NDPS Act will not disentitle the petitioner for grant of bail in view of the aforesaid factual position. The present petitioner will also have to diligently participate in the trial so as to ensure the early conclusion of the trial. Subject to the aforesaid condition, the petitioner shall be released on bail on appropriate conditions being imposed by the learned trial Court.

In view of the aforesaid facts and circumstances, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned, if not required in any other case.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of the present petition.

(JASGURPREET SINGH PURI)
JUDGE

April 10, 2023

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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No