

211/2 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-16081-2023

Date of Decision: 12.07.2023

Raj Kumar Bharti

...Petitioner

vs.

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Parminder Singh Sekhon, Advocate and
 Mr. Gagandeep Singh Gill, Advocate
 for the petitioner.

Mr. M.S.Bajwa, DAG, Punjab.

N.S.Shekhawat J. (Oral)

The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant a regular bail in case FIR No.115 dated 03.11.2022 registered under Section 18 (B) of NDPS Act, 1985 at Police Station Maur, District Bathinda.

As per the case of the prosecution, on 03.11.2022, a police party was going on Bathinda Mansa Road for patrolling and checking of suspicious persons and vehicles. When the police party reached 100 meters ahead of Rampura Chowk towards the Talwandi Sabo side, at about 9.30 am, two young persons were found sitting on cemented drains and were holding one transparent polythene bags in their hands. The said persons were apprehended at the spot and on inquiry, they disclosed their names and address i.e. Rajkumar Bharti son of Bodha Bharti, resident of Mohalla Morenwa, Village Jauri Khurd, P.S. Jauri, District Chatra (Jharkhand) and Tuntun Bharti, son of Ramesh Bharti, resident

of Mohalla Morenwa, Village Jauri Khurd, P.S.Jauri, District Chatra (Jharkhand). On suspicion, the polythene bag was checked after following the due process of law and 02 kgs of opium was recovered from the present petitioner and his co-accused. With these broad allegations, FIR in the present case was registered at Police Station Maur, District Bathinda.

Learned counsel for the petitioner contends that the petitioner was arrested in the present case on 03.11.2022 and the alleged recovery is of non-commercial quantity. He further contends that it is unbelievable that the petitioner and his co-accused were carrying a contraband in a transparent polythene. Even the conscious possession of the petitioner and his co-accused is a moot point, which shall be decided during the course of trial. He further contends that the investigation in the present case is complete and the challan has been presented. Out of 11 witnesses, only one witness has been examined and the conclusion of the trial will quite take a long time.

On the other hand, learned State counsel contends that there are specific allegations against the present petitioner and his co-accused and huge recovery has been effected from them.

I have heard the learned counsel for the parties and perused the record with their able assistance.

It is not in dispute that the petitioner was arrested in the present case on 03.11.2022 and the recovery of contraband from the petitioner and his co-accused is non-commercial in nature. Still further, the trial is at the initial stage and his further custody will serve no meaningful purpose.

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

The Court concerned may insist on two local sureties and may also impose any other condition in accordance with law. Still further, the petitioner is also directed to report to the SHO, Police Station, Maur, District Bathinda on the first Monday of every month and the SHO, Police Station, Maur, District Bathinda is directed to mark the presence of the present petitioner in the roznamcha of the police station.

Disposed off.

12.07.2023
hemlata

(N.S.SHEKHAWAT)
JUDGE

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