

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.**Case No. : CRM-M-18255-2022****Date of Decision : April 11, 2023**

Jagdish

.... Petitioner

vs.

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. Karanjeet Singh Brar, Advocate
for the petitioner.

Mr. Sarbjit Singh Cheema, DAG, Punjab.

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GURBIR SINGH, J. :

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.57 dated 09.07.2021, under Section 18 (c) of the NDPS Act, 1985, registered at Police Station Sadar Abohar, District Fazilka.

As per prosecution version, 2 kg 600 grams of opium was recovered from the possession of the petitioner on 09.07.2021.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated. There was no compliance of provisions of NDPS Act. No independent witness was joined. The recovery of contraband, found from possession of the petitioner, is slightly more than the commercial quantity, as per Schedule. The petitioner is in custody since 09.07.2021. The conclusion of trial may take a long time.

Therefore, the petitioner be released on regular bail.

In support of his contentions, learned counsel for the petitioner has relied upon CRM-M-57485-2022 titled Ranjit Singh @ Ranjit Kumar vs. State of Punjab, decided on 10.01.2023 by a Co-ordinate Bench of this Court, wherein also 2 kg 600 grams of opium was recovered and bail was granted on the ground that the recovery of contraband was marginally above the commercial quantity. Learned counsel has further relied upon CRM-M-37645-2021 titled Hari Yadav @ Hariya vs. State of Punjab, decided on 11.02.2022 by a Co-ordinate Bench of this Court, wherein also 2 kg 600 grams of opium was recovered and bail was granted.

On the other hand, learned State counsel has opposed the prayer made by learned counsel for the petitioner by submitting that recovery from the petitioner is of commercial quantity of opium. However, he has fairly conceded that the petitioner is in custody in this case since 09.07.2021 and challan has also been presented in this case.

Heard.

In case of Hari Yadav (supra), since the petitioner was behind bars for more than one year and recovery of contraband was marginally higher than the commercial quantity, bail was granted by a Co-ordinate Bench of this Court. In case of Ranjit Singh (supra), the bail was granted under similar conditions by a Co-ordinate Bench of this Court.

In the case in hand, report from the Trial Court has been received. A perusal of the report shows that only three prosecution witnesses have been examined so far. However, eight prosecution witnesses have been given up as unnecessary. Charge was framed on 15.11.2021.

Without discussing the merits of the case, but keeping in view the facts that recovery of opium recovered from the petitioner is marginally above the commercial quantity; only three witnesses of the prosecution have been examined so far; the trial is going at a slow pace and completion of trial may take a long time, this Court is of the view that no useful purpose would be served by keeping the petitioner behind bars for a long period. Accordingly, the present petition is allowed and the petitioner is directed to be released on regular bail, on his furnishing bail bonds/surety bonds, to the satisfaction of learned Trial Court/Duty Magistrate concerned.

In addition, the petitioner (or any of his family member on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. In case of default of appearance without any sufficient cause, the said amount of FDR shall be forwarded to the State.

However, nothing contained herein above shall be construed as an expression of opinion on the merits of the case.

April 11, 2023
monika

(GURBIR SINGH)
JUDGE

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