

**220 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Date of Decision: 8th February, 2023

CRM-M-19850-2022

Mubarik Khan

... Petitioner

Versus

State of Haryana

... Respondent

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Anmol Rattan Sidhu, Sr. Advocate with
Mr. Shiv Kumar, Advocate for the petitioner.

Mr. Sharad Aggarwal, Assistant Advocate General, Haryana.

AVNEESH JHINGAN , J.(Oral)

1. This petition is filed seeking regular bail in FIR No. 388, dated 18.12.2020, under Section 15 of Narcotic Drugs and Psychotropic Substances, Act 1985 (for short 'the Act') (Sections 15(c), 18, 27(a), 29 of the Act and Section 201 IPC added later on), registered at P.S. Uchana, District Jind.

2. Learned counsel for the petitioner submits that two FIRs arose from an incident of alleged transportation of narcotics substances from Madhya Pradesh to Haryana. The petitioner was granted bail in another FIR No. 392 by this Court vide order dated 6th April, 2022 and submits that allegations were similar. He submits that petitioner is in custody since 26th February, 2021.

3. The following order was passed by this Court on 6th April, 2022 in CRM-M-42335-2021 and connected cases:-

“Petitioners are seeking regular bail in case of FIR No. 392 dated 24.12.2020, under Sections 15(c), 25, 29, 59, 18, 27-A of NDPS Act, 1985 and Sections 7, 7-A, 8 of the Prevention of Corruption Act, 1988 and Sections 192, 196, 201, 202, 203, 217, 409, 166-A of IPC, 1860 (Sections 18, 27-A of NDPS Act, 1985 and Sections 7, 7-A, 8 of Prevention of Corruption Act, 1988 and Sections, 192, 196, 201, 202, 203, 217, 409, 166-A IPC, 1860 added lateron), registered at Police Station Uchana, District Jind.

The relevant facts are that there are two inter-related FIRs. Jagroop Singh was apprehended shifting 21 bags of Poppy Husk from truck bearing registration No.HR-45-C-9998 (hereinafter referred to as 'the truck') to a vehicle (chotta hathi) and FIR No. 388 dated 18.12.2020 to that effect was registered at Police Station Uchana.

Thereafter an information was received that staff of CIA Jind, had parked a truck loaded with onions with hidden contraband in the Police Station, without recording the information regarding contraband. Acting upon the information, the parked truck was checked and 20 bags of Poppy Husk were recovered and FIR No. 392 dated 24.12.2020 was registered. Amandeep and Rakesh were the driver and cleaner respectively. From Amandeep, 600 grams of Opium was also recovered. Petitioner- Gurinder Singh father of Amandeep is the owner of the truck.

As per the case set up, the recovered Poppy Husk was purchased in Madhya Pardesh from petitioner-Mubarik Khan and Irfan. Jagroop, who was apprehended shifting the Poppy Husk bags, disclosed the name of petitioner-Subhash @ Golu, as one of the purchaser of the recovered contraband. The role attributed to petitioner-Sanjay is that he was Ex- Sarpanch of village and acted as a mediator between the accused and the police officials for release of the accused and the contraband.

Dr. Anmol Rattan Singh Sidhu, Senior Advocate for Mubarik Khan submits that the petitioner is a whole-sale Onion trader at Ratlam District, Madhya Pradesh. The contention is that the petitioner is named in a disclosure statement. The onions loaded in truck were sold by the petitioner and he has nothing to do with the

recovered contraband. Petitioner is not involved in any other case under NDPS Act except these two FIRs. He further submits that it was in relations to the trading of onions, the petitioner was in constant touch with Irfan.

Mr. Virender Soni, Advocate, appearing for petitioner-Subhash @ Golu submits that the petitioner was named in the disclosure statement made by Jagroop, as one of the purchaser of the recovered contraband. There is no other evidence with the prosecution to connect the petitioner with the recovered contraband. He further submits that he was engaged in vegetable trading and hence was in contact with Irfan and Amandeep.

Mr. K.P. Singh, Advocate appearing for petitioner-Gurinder Singh submits that the petitioner is owner of the truck. He was not apprehended from the spot, his son was the driver of the truck and he is not involved in any other case.

Mr. Vikram Singh, Advocate appearing for petitioner-Sanjay submits that no role has been attributed to the petitioner with regard to recovery of the contraband. He was nominated on basis of disclosure statement that he acted as a mediator between the accused and ASI Parveen. There is no evidence against the petitioner. It is argued that there is no proof against the petitioner with regard to demand or payment of illegal gratification. Further that petitioner is not involved in any other case.

It is a common argument in all cases that investigation is complete and challan stands presented.

Learned State counsel opposes the prayer for bail. Submission is recovery from the truck was of commercial quantity. The petitioners in connivance with each other were indulging in transporting and supply of contraband.

The custody period of petitioners are:-

<i>S. No.</i>	<i>Name of the petitioner</i>	<i>In custody period</i>
<i>1.</i>	<i>Mubarik Khan</i>	<i>13.1.2021</i>
<i>2.</i>	<i>Sanjay</i>	<i>9.8.2021</i>
<i>3.</i>	<i>Gurinder Singh</i>	<i>14.4.2021</i>
<i>4.</i>	<i>Subhash @ Golu</i>	<i>25.2.2021</i>

Petitioners apart from these two FIRs are not having any criminal antecedents. They have been named in the disclosure statement. No recovery was made from the petitioners. Considering the custody period and that though the investigation is complete, conclusion of trial is likely to take time, bail is granted to the petitioners on furnishing surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

The petitions are allowed.

It is clarified that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

Photocopy of this order be placed on the files of connected cases.'

4. Learned counsel for the State is not in a position to dispute the fact that the petitioner was granted bail in FIR No. 392 having similar allegations.
5. Without commenting on the merits of the case, considering that in the connected FIR having similar allegations, the petitioner was granted bail, the custody period and though the investigation is complete conclusion of trial is likely to take time, the petitioner is granted bail subject to his furnishing bail bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.
6. The petition is allowed.
7. However, it is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

(AVNEESH JHINGAN)
JUDGE

8th February, 2023
anuradha

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