

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-21950-2023(O&M)

Date of Decision:-18.08.2023

Rajinder Singh @ Raju.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Chandan Singh Rana, Advocate &
Ms. Sonia Parmar Rana, Advocate for the Petitioner.

Mr. Kirat Singh Sidhu, Deputy Advocate General, Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.181 dated 17.09.2022 under Sections 18/25/61/85 of NDPS Act registered at Police Station Tibba, District Ludhiana.

2. The brief facts of the case are that while the police party was on patrolling duty secret information was received that Rajinder Singh @ Raju (petitioner) was the driver of a taxi and in the guise of running a taxi was supplying drugs in the Ludhiana city. He was coming from Mohali towards Ludhiana to supply opium and if checking was done, opium in large quantity could be recovered from him.

Based on the aforesaid information a *nakabandi* was set up and one taxi car Honda Amaze colour white which was being driven by one Sikh

person was seen coming from Tajpur roadside. It was signalled to stop, but the car driver got worried on seeing the police party at the *naka* and stopped his car short of the *naka* and tried to turn it back. He was apprehended and disclosed his name as Rajinder Singh @ Raju. After complying with the provisions of the Act regarding search and seizure, the recovery of 2 kg 700 gm of opium came to be effected from the bag in his possession.

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. The petitioner has been in custody since 17.09.2022 and none of the 15 prosecution witnesses have been examined so far. Therefore, the trial of the present case was not likely to be concluded anytime soon. Even otherwise, as the recovery from the petitioner was marginally above the commercial quantity of 2.5 Kg of opium, the petitioner was entitled to the grant of bail.

4. On the other hand, the learned State counsel contends that the commercial quantity of contraband has been recovered from the petitioner. Therefore, he was not entitled to the concession of bail in view of the bar contained under Section 37 of the NDPS Act. She, however, concedes that the petitioner is a first time offender, in custody since 17.09.2022 and none of the 15 prosecution witnesses had been examined so far.

5. I have heard the learned counsel for the parties.

6. In the cases of '*Sukhchain Singh @ Manga Versus State of Punjab, CRM-M-7857-2022 decided on 04.04.2022, Pardeep Singh versus State of Punjab, CRM-M-46244-2022 decided on 19.01.2023, Hari Yadav @ Haiya versus State of Punjab (CRM-M-37645-2021)*' decided on 11.11.2022, '*Jang Kanwar Versus State of Punjab (CRM-M-53415-2021)*' decided on 19.01.2022, '*Shankar Prashad Chanau Versus The State of Punjab, CRM-M-24090-2020, decided on 27.08.2020, Gurpreet Kumar*

Versus State of Punjab, CRM-M-17021-2021, decided on 31.08.2021, Salim Versus State of Haryana, CRM-M-42436-2020, decided on 24.02.2021, Gagandeep Versus State of Punjab, CRM-M-3055-2021, decided on 27.01.2021, Gurpreet Singh @ Gopi Versus State of Punjab, CRM-M41039-2019, decided on 26.02.2020, Dalbara Singh Versus State of Punjab, CRM-M-47880-2022 decided on 16.01.2023', and Vivek Watts versus State of Punjab, CRM-M-13791-2022 decided on 15.02.2023, where the recovery from the accused was marginally above the commercial quantity for the respective contraband in each case, the Court granted bail to the accused therein.

7. In the present case, the alleged recovery from the petitioner is 2kg 700 grams of opium, which is marginally above the commercial quantity of 2.5 kg. In this situation, the provisions of Section 37 of the NDPS Act can be relaxed to an extent and the case of the petitioner can be considered for the grant of bail, moreso, when he is in custody since 17.09.2022 and none of the 15 prosecution witnesses have been examined so far.

8. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, **Rajinder Singh @ Raju** son of Sh. Hakam Singh is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. The petitioner shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that he is not involved in any other case other than the present case.

10. In addition, the petitioner (or someone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the

Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from Trial without sufficient cause.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

August 18, 2023
Vinay

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