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

CRM-M-26849-2023

Date of Decision: 13.07.2023

Harjinder Singh

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. D.S. Virk, Advocate,
for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present is a second petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.188 dated 08.04.2020, under Section 15 of the NDPS Act later on Challan filed under Sections 18, 27-A, 29 of the NDPS Act and Sections 140, 216, 419, 420, 467, 468, 471, 473 IPC and Section 6 of the Official Secrets Act, registered at Police Station Pehowa, District Kurukshetra.

2. It has been submitted by learned counsel for the petitioner that it is a case where the petitioner is in custody since 08.04.2020 which is more than 3 years and 3 months. He further submitted that the petitioner is not a habitual offender and is not involved in any other case and he was only employed as cleaner of the truck and there was an alleged recovery of 248 kgs. of *Poppy Husk* and 1.5 kgs. of *Opium* from the truck. He also submitted

that the other co-accused, namely, Balbir Singh @ Bheera, who was the driver of the truck, has already been extended the benefit of regular bail by a Co-ordinate Bench of this Court in CRM-M-20930-2023 on 04.05.2023 vide Annexure P-2. He further submitted that the aforesaid co-accused has been granted regular bail primarily on the basis of his long custody and the present petitioner is on a better footing as compared to the aforesaid co-accused, who was the driver of the truck whereas the petitioner was only a cleaner of the truck. He further submitted that there was no recovery from the conscious possession of the petitioner, but recovery was from the truck of which he was only a cleaner. He also submitted that considering the aforesaid long custody of the petitioner and the trial of the case may take long time and is not going on a fast pace and therefore, has prayed that the petitioner may also be considered for the grant of regular bail.

4. On the other hand, Mr. Vishal Kashyap, learned DAG, Haryana, submitted that it is correct that the petitioner has faced incarceration for more than 3 years and 3 months and he is having clean antecedents and is not involved in any other case. So far as the grant of regular bail to the other co-accused, namely, Balbir Singh @ Bheera, the learned State counsel has not disputed the same.

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

6. It is a case where the petitioner has faced incarceration for more than 3 years and 3 months and he is stated to be not involved in any other case. The other co-accused, namely, Balbir Singh @ Bheera has already been extended the benefit of regular bail by a Co-ordinate Bench of this Court vide Annexure P-2. So far as the present petitioner is concerned, he

was stated to be a cleaner of the truck whereas the aforesaid co-accused was the owner of the truck. As per the learned counsel for the parties, only 5 out of 40 cited witnesses have been examined. Apart from the above, it is neither the case of the State nor it has been argued by the learned State counsel that in case the petitioner is released on bail then he may abscond or flee from justice or may influence the witness or may tamper with the evidence.

7. In view of the aforesaid position and considering the long custody of the petitioner which is more than 3 years and 3 months and the fact that the aforesaid co-accused has already been enlarged on regular bail vide Annexure P-2 and the petitioner being on better footing as compared to him is also entitled for the grant of regular bail.

8. Consequently, the present petition is allowed and the petitioner is ordered to be released on regular bail on furnishing bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.

9. 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 present petition.

13.07.2023

(JASGURPREET SINGH PURI)

Bhumika

JUDGE

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |