

(1)

Neutral Citation No. 2023:PHHC:048450
CRM-M-21332 of 2022

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

CRM-M-33061 of 2021
Date of Decision:- 10.04.2023

Surajmal

....Petitioner

Vs.

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Jai Parkash Dhull, Advocate
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

KARAMJIT SINGH, J.(Oral)

Prayer is for grant for regular bail to the petitioner in case having FIR No.0235 dated 29.11.2020 registered under Section 15 of Narcotic Drugs and Psychotropic Substances Act 1985, (Section 29 of Act No.61 of NDPS added later on) Police Station Narwana City, District Jind.

The brief facts of the case are that police received secret information regarding co-accused Ashok Kumar on 29.11.2020 and then police raided the disclosed shop from where aforesaid Ashok Kumar was apprehended and 21 bags each containing 15 kg of poppy husk were recovered from said shop. During investigation co-accused

Ashok Kumar disclosed that the said poppy husk was meant for petitioner Surajmal. That the aforesaid premises belong to distant relative of the petitioner and even the truck owned by petitioner was used for transportation of said contraband and was later on recovered by the police. The petitioner was arrested on 10.03.2021.

The counsel for the petitioner inter alia contends that the petitioner has been falsely implicated in the present case on the basis of alleged disclosure made by co-accused Ashok Kumar who was arrested at the spot. The counsel for the petitioner further submits that no truck was recovered by the police from near the place of recovery and there is nothing on record to establish that the shop from where the recovery was effected, belongs to relative of the petitioner who has given her affidavit in favour of the petitioner with regard to its control and possession. The counsel for the petitioner further submits that the petitioner is in custody for the last more than two years and the trial is not progressing ahead. So prayer is made that the petitioner who is having no criminal history be released on bail.

The present petition is resisted by the State counsel who submits that the recovery in question was effected from the shop which is controlled and managed by the petitioner. The State counsel further submits that the truck belonging to the petitioner used for transportation of contraband was also seized by the police. However, the State counsel has not disputed the fact that the petitioner was not

(3)

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named in the FIR and was not found at the spot when the alleged recovery was made and further no record is available to show ownership of the petitioner with regard to shop in question. The State counsel had admitted that the petitioner who is having no criminal history is in custody since 10.03.2021 and that it will take time for the trial to conclude.

In the given circumstances it is a matter of evidence to connect the petitioner with the alleged recovery of commercial quantity of contraband, as the petitioner was neither named in the FIR nor was arrested from the place of recovery. Further, the ownership of shop in question is also matter of trial. Admittedly, the petitioner is having no criminal antecedents and is in custody for the last more than two years and it will take considerable time for the trial to conclude. So parameters of bail available under Section 37 of NDPS Act appears to have been satisfied in the present case.

Consequently, without expressing any opinion on the merits of the case, the present petition is hereby allowed and the petitioner is ordered to be released on bail subject to his furnishing bail and surety bonds to the satisfaction of the CJM/Duty Magistrate concerned.

10.04.2023
P. Chawla

(KARAMJIT SINGH)
JUDGE

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