

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

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CRM-M-29152-2023 (O&M)
Date of decision: 09.11.2023

Satnam Singh

....Appellant

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Ms. Ramandeep Kaur, Advocate for
Mr. G.S. Sandhu, Advocate for the appellant

Mr. Manipal Singh Atwal, DAG Punjab

AMAN CHAUDHARY. J.

1. Prayer in the present petition filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in case FIR No.0204, dated 10.11.2022, registered under Sections 15(b) of NDPS Act, 1985 at Police Station Sri Muktsar Sahib, District Sri Muktsar Sahib.

2. Learned counsel contends that the petitioner is in custody for 1 year. The contraband allegedly recovered from him is non-commercial in nature, it being 5 kg of poppy husk. He alleges false implication. The mandatory provisions of Sections 42 and 50 of NDPS Act were not followed. No independent witness was joined at the time of the alleged recovery. Charges were framed on 06.02.2023. Out of 17 prosecution witnesses, none has been examined till date.

The petitioner is involved in 2 more cases under the NDPS Act, however, is on bail. Reliance is placed on the judgment of Hon'ble The Supreme Court in **Maulana Mohd. Amir Rashadi vs. State of U.P. and others**, 2012(2) SCC 382.

3. The custody certificate dated 08.11.2023 has been filed by learned State counsel. As per the same, the petitioner is behind bars for 1 year and 1 day.

4. Learned State counsel opposes the bail on the ground that the petitioner was apprehended at the spot and the alleged contraband has been recovered from him. He is however unable to controvert the submissions with regard to stage of the case, the recovery being non-commercial and the petitioner being on bail in other cases.

5. Heard.

6. Hon'ble The Supreme Court in the case of **Maulana Mohd. Amir Rashadi** (supra) had held that, "As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc."

7. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for the last 1 year and 1 day; on bail in other cases; non-commercial quantity of contraband has been recovered from him, therefore, rigors of Section 37 of NDPS Act are not attracted in the present case; charges were framed on 06.02.2023, however, none out of 17 prosecution witnesses have yet been examined, the trial is likely to take a considerable time, thus his further incarceration would not serve any useful purpose, the present petition for grant of

regular bail deserves to be allowed.

8. As a result, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to his not being required in any other case. The petitioner shall abide by the following conditions:-

- (i) The petitioner will not tamper with the evidence during the trial.
- (ii) The petitioner will not pressurize/ intimidate the prosecution witnesses.
- (iii) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
- (iv) The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.
- (v) The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/ her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.
- (vi) The petitioner shall not in any manner misuse his liberty.
- (vii) The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.
- (viii) The petitioner shall not leave the country without prior permission of the trial Court.
- (ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.

9. It is made abundantly clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

10. In view of the above, it is clarified that the observations made herein are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AMAN CHAUDHARY)
JUDGE

November 09, 2023
M.Kamra

Whether speaking/reasoned

:

Yes / No

Whether reportable

:

Yes / No