

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-32457-2023 (O&M)

Date of Decision: 28.08.2023

JAIVIR

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. DPS Jaura, Advocate
for the petitioner.

Ms. Ankita Ahuja, AAG, Haryana.

HARNARESH SINGH GILL, J.(Oral)

The petitioner has filed this petition under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.387 dated 17.10.2022, registered under Sections 15, 25, 29, 61 of the NDPS Act, at Police Station Madhuban, District Karnal.

Reply by way of an affidavit dated 22.08.2023 of the Additional Superintendent of Police, Karnal, filed on behalf of the respondent-State, in the Court, is taken on record. Copy thereof has been supplied to the learned counsel opposite.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case; that the petitioner was not named in the FIR and indicted on the basis of disclosure statement of co-accused, namely, Gurcharan Singh and Balvinder Singh, from whom the alleged recovery of 54 kg. of poppy husk was effected, which is marginally above the commercial quantity; that the petitioner has been in

custody for the last more than 09 months and that there is no other case registered or pending against the petitioner under the NDPS Act. He further submits that co-accused, namely Gurcharan Singh, has already been granted the concession of regular bail by a Coordinate Bench of this Court vide order dated 18.08.2023 and that nothing has been recovered from the petitioner till date. Still further, it is submitted that out of total 22 prosecution witnesses, none has been examined, so far.

Per contra, while opposing the prayer for grant of regular bail to the petitioner, learned State counsel does not dispute the custody period of the petitioner. She, however, submits that the petitioner was the supplier of the contraband, which was recovered from the co-accused and that the petitioner has been specifically named by the co-accused in their disclosure statements. She further submits that the material prosecution witnesses are yet to be examined and thus, the petitioner be not granted the concession of regular bail.

I have heard the learned counsel for the parties.

Petitioner was not named in the FIR and was indicted on the basis of the disclosure statements of co-accused, namely, Gurcharan Singh and Balwinder Singh. The petitioner has been in custody for more than 9 months. Nothing has been recovered from the petitioner till date. There is no other case registered and/or pending against the petitioner under the NDPS Act. Co-accused has since been enlarged on bail. Prosecution evidence is yet to commence. In such circumstances, the trial of the case would take a long time to conclude. Therefore, no useful purpose would be served by keeping the petitioner behind the bars.

In view of the above and without commenting anything on the merits of the case, lest it should prejudice the case of either side, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/Chief Judicial Magistrate concerned.

28.08.2023

(HARNARESH SINGH GILL)

Aman Jain

JUDGE

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