

CRM-M-33958-2023

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209 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-33958-2023
Date of Decision: 29.09.2023

Gulzar Singh @ Jodha

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Lalit Attri, Advocate,
for the petitioner.

Mr. G.S.Sandhu, DAG, Punjab,
for the respondent-State.

RAJBIR SEHRAWAT, J. (ORAL)

1. The present petition has been filed by the petitioner under Section 439 Cr.P.C for grant of bail pending trial in case FIR No.22 dated 30.03.2019, registered under Sections 08 and 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station Rangar Nangal, Police District Batala, District Gurdaspur.

2. The custody certificate, as well as, status report by way of an affidavit of Ajesh Kakkar, PPS, Deputy Superintendent of Police, Sub Division Sri Hargobindpur, Police District Batala, on behalf of the respondent-State, filed by learned counsel for the respondent-State in Court today, are taken on record.

3. It is submitted by the learned counsel for the petitioner that the case against the petitioner is totally concocted. The petitioner is not involved

in the crime as alleged against him. To involve the petitioner in the false case, the police have concocted the recovery, allegedly, of 80 Kgs. of green poppy plants. Therefore, even the quantity of the contraband, if any, stated to be recovered, is a moot point. The prosecution has examined only three witnesses so far; out of eleven witnesses. The petitioner is in custody for about two years in the present case. Learned counsel for the petitioner has relied upon the judgments rendered by the Hon'ble Supreme Court in the cases of *Nitish Adhikary @ Bapan Vs. The State of West Bengal* vide order dated 01.08.2022 passed in *SLP (Criminal) No.5769-2022*; *Mohd. Muslim @ Hussain Vs. State (NCT of Delhi), 2023 AIR (Supreme Court) 1648* and another judgment rendered in *Md. Hasanuzzaman Vs. State of West Bengal & Ors, SLP (Crl.) No.3221 of 2023* vide order dated 04.05.2023, to buttress his arguments. Learned counsel has also asserted that there is no other criminal case against the petitioner. Hence, the petitioner deserves to be released on bail pending trial.

4. On the other hand, learned State counsel, being instructed by ASI Surinder Pal Singh, has submitted that a huge recovery of about 80 Kgs. of green poppy plants was effected were recovered from the petitioner. Therefore, the petitioner does not deserve for any concession of bail pending trial. However, it is not disputed that the petitioner has been in custody for about two years, prosecution has examined only three witnesses so far, and that there is no other case against the petitioner.

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5. In view the above, but without expressing any further opinion on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial subject to his furnishing bail bonds/surety to the satisfaction of the Trial Court/Duty Magistrate, concerned.

(RAJBIR SEHRAWAT)
JUDGE

29.09.2023
adhikari

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No