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

CRM-M-38499-2022 (O&M)

Date of decision: July 05, 2023

Sukhwinder Singh

....Petitioner

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Ankur Jain, Advocate for petitioner.

Ms. Guramrit Kaur, DAG Punjab.

ARUN MONGA, J. (ORAL)

Petitioner, stated to be 47-year old, seeks bail in criminal case bearing FIR No.15 dated 31.01.2020, registered under Sections 15 and 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), at Police Station Gurusahai, District Tarn Taran.

2. As per prosecution case, on secret information, police put a *naka* (barricade) at the disclosed place, but on seeing the police party petitioner ran away from the spot leaving the vehicle-a Canter. Upon search, 60 kg of poppy husk and 1 kg of opium were recovered from the vehicle. Petitioner was later arrested on 31.03.2022 and has been in custody since then.

3. Learned counsel for petitioner submits that petitioner has falsely been implicated in the present case. He contends that petitioner was not present at the spot. No recovery was effected from him. At the time of alleged incidence, he was undergoing treatment at Sankalp Drug Dependence Treatment Centre, Tarn Taran. Petitioner is neither owner nor driver of the vehicle in

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question. He further contends that no witnesses have been examined in the trial till date.

4. On the other hand, learned State counsel, on instructions from ASI Tarlok Singh opposes the bail petition. She submits that petitioner has committed serious offence. She submits that there is one more case pending against the petitioner, though he is on bail in that case.

5. I have heard rival contentions of learned counsels for the parties and have gone through the case file.

6. Allegedly, 60 grams of poppy-husk (marginally higher than commercial quantity of 50 kg.) including 1 kg of opium (less than commercial quantity of 2.5 kg.) were recovered from the vehicle in question which was purportedly being driven by petitioner. There is no independent witness of the occurrence.

7. Investigation is over and after filing of the charge-sheet trial has begun. Petitioner is thus not required anymore for custodial interrogation.

8. In the trial, no witnesses have been examined till date. Further trial is still likely to take long time, whereas petitioner has already been languishing in jail for the past more than 1-year three months.

9. Considering the overall scenario and without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody.

10. Accordingly, petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court, where his case is being tried and in case he/she is not available, before learned Duty Judge, as the case may be.

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11. In case, petitioner is found to be involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his bail in the instant case.
12. It is made clear that any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for limited purpose of bail hearing alone and learned trial Court shall proceed without being influenced with this order.
13. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

July 05, 2023

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No