

2023:PHHC:101689

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

CRM-M-37371-2023

Date of decision : 07.08.2023

Gurdit Singh @ Geetu**..... Petitioner****versus****State of Punjab****..... Respondent****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Ruhani Chadha, Advocate
for the petitioner.

Mr. Amit Shukla, AAG, Punjab.

PANKAJ JAIN, J. (Oral)

Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.15 dated 30.01.2023, registered for offence punishable under Section 18 of the NDPS Act, 1985 at Police Station Sujampur, District Pathankot.

2. Counsel for the petitioner relies upon order passed by Coordinate Bench dated 06.06.2023 passed in **CRM-M-28690-2023** vis-a-vis co-accused Kashmir Singh who stands admitted to regular bail from whom recovery of 1 kg 500 gms of opium was made and submits that on the similar lines, the other co-accused Nirvair Singh also stands admitted to bail vide order dated 17.07.2023 in **CRM-M-32885-2023**.

3. Counsel for the petitioner further submits that the recovery alleged to have been effected from the petitioner is 2 kg of opium which also would be non-commercial quantity and thus would not invite rigors of Section 37 of the NDPS Act.

2023:PHHC:101689

4. Per contra, counsel for the State however submits that the petitioner is habitual offender and has 03 more cases against him under NDPS Act.

5. Faced with the situation, counsel for the petitioner submits that the petitioner is admittedly on bail in FIR No.193 dated 22.11.2019, registered for the offences punishable under Sections 15/25/61/85 of NDPS Act at Police Station Kartarpur and has earned acquittal in FIR No.88 dated 25.06.2019, registered for the offences punishable under Sections 15/29/61/85 of NDPS Act at Police Station Kartarpur and submits that FIR No.295 dated 13.11.2021, registered for the offences punishable under Sections 15C/25/29/61/85 of NDPS Act at Police Station Sultanpur Lohdi, there is no direct evidence against the petitioner and he has been nominated merely on the basis of disclosure. Apart from that he submits that even in the case of Kashmir Singh, there were other cases. Further reliance has been placed upon ***Prabhakar Tewari Vs. State of UP and Anr., 2020 (1) RCR (Criminal) 831*** to submit that the involvement of the petitioner in several more cases cannot be a ground to deny bail. Further reliance has been placed on ***Maulana Mohd. Amir Rashadi Vs. State of UP (SC), 2012(2) SCC 382.***

6. I have heard counsel for the parties and have gone through the records of the case.

7. Keeping in view the incarceration already suffered by the petitioner and the fact that the co-accused already stands admitted to regular bail, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the

2023:PHHC:101689

satisfaction of the Ld. Trial Court/Duty Magistrate, concerned. However, in addition to conditions that may be imposed by the Trial Court/Duty Magistrate concerned, the petitioner shall remain bound by the following conditions :-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence oral or documentary during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence similar to the one alleged in the present case.
- (v) The petitioner shall deposit his passport, if any with the trial Court.
- (vi) The petitioner shall give his cellphone number to the police authorities and shall not change his cell-phone number without permission of the trial Court.
- (vii) The petitioner shall not in any manner try to delay the trial.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by the Trial Court, the prosecution shall be at liberty to move cancellation of bail of the petitioner.

9. Ordered accordingly.

(PANKAJ JAIN)
JUDGE

07.08.2023
Dinesh

Whether speaking/reasoned : Yes
Whether Reportable : No