

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

CRM-M-38225-2023

Date of Decision:-09.11.2023

Rashpal Singh.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Sanjeev Kumar Banga, Advocate for the Petitioner.

Ms. Ramta K Chaudhary, Deputy Advocate General,
Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.51 dated 24.06.2023 under Sections 18A, 29, 61, 85 of the NDPS Act registered at Police Station Sarai Amanat Khan, District Tarn Taran.

2. The brief facts of the case are that while the police party was on patrolling duty one Swift Car was seeing coming and was stopped. Two men came out of the car who attempted to run away to village Jagatpura and while doing so one of them took out a black colour polythene bag and threw it on the road. Both the persons were apprehended and on asking disclosed their names as Rashpal Singh (petitioner) and Azad Singh. The search of the polythene revealed 50 grams of Opium.

3. The Counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. There is a violation of the

mandatory provisions of the NDPS Act including Sections 42 and 50. However, taking the prosecution case to be correct, the recovery is of a non commercial quantity of contraband. As the petitioner was in custody since 24.06.2023 and none of the 09 prosecution witnesses had been examined so far, he was entitled to the concession of bail.

4. The Counsel for the State, on the other hand, contends that the offence has been established against the accused beyond reasonable doubt. Offences of this kind were on the rise. Therefore, the petitioner was not entitled to the concession of bail. He, however, concedes that the petitioner was a first-time offender, in custody since 24.06.2023, none of the 09 prosecution witnesses have been examined so far and that the recovery effected from the petitioner was of a non commercial quantity.

5. I have heard Counsel for the parties.

6. The veracity of the prosecution case against the petitioner and his co-accused shall be adjudicated upon during the course of the Trial. The recovery is of non commercial quantity of contraband. The petitioner is stated to be a first time offender, in custody since 24.06.2023 and none of the 09 prosecution witnesses had been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation the further incarceration of the petitioner is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Rashpal Singh** son of Sh. Sawinder Singh is ordered to be released on bail subject to her furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform

in writing each time that he is not involved in any other crime other than the present case.

9. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.25,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

November 09, 2023

Vinay

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