

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-38491-2023
Date of decision:- 14.09.2023

Rambariksh Kumar @ Ram Bariksh Kumar... Petitioner

Versus

State of Punjab.. Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr.S.S. Sarwara, Advocate
for the petitioner.

Mr. Anup Singh, AAG, Punjab.

SUVIR SEHGAL, J. (ORAL)

1. Instant petition has been filed under Section 439 Cr.P.C. seeking grant of post-arrest bail in:-

FIR No.	Dated	Police Station	Sections
122	19.04.2023	Dera Bassi, District SAS Nagar	18 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “the NDPS Act”

2. Case of the prosecution is that FIR, Annexure P-1, has been registered on the basis of secret information. Rambariksh Kumar @ Ram Bariksh Kumar, present petitioner was apprehended and 1 kg 750 gram of opium was recovered from his possession.

3. Counsel for the petitioner contends that the petitioner has been falsely implicated and no recovery as alleged was made from him. He urges that there is violation of the mandatory provisions of NDPS Act at the time of alleged search and seizure. He submits that the petitioner, who has a clean past deserves to be enlarged on bail as investigation qua him is complete and he is no longer required for custodial interrogation.

4. *Per contra*, learned State counsel, upon instructions has opposed the petition and has submitted that the petitioner has been smuggling opium from Jharkhand and selling it in Dera Bassi area. According to him, petitioner has been apprehended on the basis of reliable information. State counsel submits that he has instructions to state that charge has been framed on 04.09.2023. Upon a specific query from the Court, State counsel has got verbal instructions and submits that the petitioner is not involved in any other criminal case in the state of Punjab or in his home State.

5. I have heard and considered the submissions made by counsel for the parties.

6. Recovery effected from the petitioner is non-commercial and falls within the ambit of intermediate quantity, as per notification issued under the NDPS Act. Bar under Section 37 of the NDPS Act is not applicable.

7. Noticing the custody of petitioner over four months, stage of the trial and his unblemished antecedents, this Court has no hesitation in releasing the petitioner on bail during the pendency of the trial.

8. Without adverting to the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of

the Trial Court/Duty Magistrate, concerned. The petitioner shall furnish a solvent local surety to the satisfaction of the Trial Court/Duty Magistrate, concerned.

9. It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

14.09.2023
Brij

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No