

2023:PHHC:106857

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-38829-2023
DECIDED ON: 18.08.2023

GURCHARAN SINGH
.....PETITIONER

VERSUS

STATE OF HARYANA
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Gursahib Singh Hundal , Advocate
for the petitioner.

Mr. Sandeep Singh Mann, Addl. AG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court under Section 439 Cr.P.C., has been invoked for the grant of regular bail to the petitioner in FIR No. 0387, dated 17.10.2022, under Sections 15, 25, 29 of NDPS Act, 1985, registered at Police Station Madhuban, Karnal, District Karnal (Haryana).
2. Mr. Gursahib Singh Hundal, learned counsel for the petitioner vehemently contends that its a case of false implication, wherein the alleged recovery of 54 KGs of *poppy husk* has been planted upon the petitioner as well as his son namely Balwinder Singh @ Bittu merely out of enmity at the hands of police authorities alone. The said enmity has been attributed for the reason that a Criminal Writ Petition bearing No.1622 of 2016 was filed by the present petitioner to seek release of detenue namely Satnam Singh another son of the petitioner being in illegal custody detained in premises of CIA-II Staff, Karnal.
3. Mr. Hundal further asserts that the compliance of Section 50 of Act also not complied with in letter and spirit and the alleged recovery effected from a

plastic bag was also not from the car, but from some other place, which was brought by the police authorities itself and there is no material with the Investigating Agency to show that the petitioner was in possession of the said contraband at the time of alleged recovery from the car. He also submits that there are total 22 prosecution witnesses out of which none has been examined, which curtails the right of the petitioner for speedy trial and expeditious disposal, as enshrined under Article 21 of the Constitution of India as has been time and again discussed by this Court, while relying upon the judgment of the Apex Court passed in ***Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131.***

4. Mr. Sandeep Singh Mann, Addl. AG, Haryana has filed the custody certificate of the petitioner, which is taken on record. A copy of the same has been furnished to the counsel for the petitioner. It has been asserted by learned State counsel that the petitioner is a habitual offender, who is involved in other case bearing No.FIR No.119/2019, under Sections 15 & 25 of NDPS Act, registered at Police Station Assandh, Karnal, therefore, does not deserve the concession of bail. Though, he could not controvert the fact of filing of Criminal Writ Petition dated 30.12.2016 titled as ***Gurcharan Singh vs. State of Haryana and others*** i.e. much prior in time to the registration of instant FIR, which stands disposed of 17.08.2023.

5. Be that as it may, this Court crystallizes the fact that the petitioner is found to be in alleged possession of 54 Kgs of poppy husk i.e., marginally over and above the commercial quantity of 50 kgs and in the other case, the petitioner is on bail, apart from that there is no other case against him.

6. Even otherwise pendency of other cases is concerned as has been stated by learned State counsel, no doubt, at the time of granting bail, the criminal antecedents of the petitioner are to be looked into but at the same time it is equally true that the appreciation of evidence during the course of trial has to be looked into with

other pending cases. In such eventuality strict adherence to the rule of denial of bail on account of pendency of other cases/convictions in all probability would lend the petitioner in a situation of denial the concession of bail.

7. In the light of judgment passed in *CRM-M-57485-2022 titled as Ranjit Singh @ Ranjit Kumar vs. State of Punjab* by relying upon the judgment of *Gurpreet Kumar vs. State of Punjab 2021(2) DC (Narcotics) 862 and Hari Yadav @ Hariya vs. State of Punjab passed in CRM-M-53415-2021 decided on 11.02.2022*, wherein the recovery of contraband is marginally over and above the commercial quantity added with the fact that trial is likely to take long time, as out of total 22 witnesses, none has been examined so far after framing of charges on 28.07.2023, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

8. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

(SANDEEP MOUDGIL)
JUDGE

18.08.2023

Meenu

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>