

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

236

CRM-M-39397 of 2023

Date of Decision:18.08.2023

Prem Kumar

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Vikas Bishnoi, Advocate,
for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.98 dated 15.03.2023, under Section 15C of the NDPS Act(Section 27-A of the NDPS Act added later on), registered at Police Station Hansi Sadar, District Hansi.

2. It is submitted by learned counsel for the petitioner that the petitioner is in custody from 15.03.2023 and has been falsely implicated in the present case. As per the prosecution story, the petitioner was coming on a motorcycle from the State of Jharkhand. He submitted that the petitioner is not involved in any other case and has clean antecedents and qua the petitioner the alleged recovery is 30 kgs. of poppy husk which does not fall within the category of commercial quantity and so far as the other two co-accused are concerned, there was alleged recovery of 55 kgs. of poppy husk. He submitted that be that as it may, so far as the present petitioner is concerned, the alleged recovery from him does not fall in the category

of commercial quantity and he being a first time offender may be considered for the grant of regular bail.

3. On the other hand, Mr. Vishal Kashyap, learned DAG, Haryana has stated that it is correct that the petitioner is in custody from 15.03.2023 and the investigation of the case has already been completed but the final report under Section 173 of the Code of Criminal Procedure has not been presented till date.

4. I have heard learned counsel for the parties.

5. As per the FIR, the petitioner was carrying 30 kgs. of poppy husk which does not fall within the category of commercial quantity and therefore even as per the prosecution, total recovery from the conscious possession of the petitioner was only 30 kgs. of poppy husk. The petitioner is stated to be not involved in any other case and has clean antecedents and the same position has not been refuted by the learned State counsel in this regard. Therefore this Court is of the view that the petitioner deserves the concession of regular bail.

6. Consequently, the present petition is allowed. The petitioner shall be released on regular bail, if not required in any other case, subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

7. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of the present petition.

(JASGURPREET SINGH PURI)
JUDGE

August 18, 2023

dinesh	Whether speaking	:	Yes/No
	Whether reportable	:	Yes/No