

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

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CRM-M-42354-2022
Date of decision : 12.01.2023

Rehmat Ali @ Chunni

Petitioner

V/S

State of Punjab

Respondent

CORAM : HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Ms. Arti Kaur, Advocate
for the petitioner.

Mr. Jaspal Singh Guru, Asstt. A.G., Punjab
for the respondent-State.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioner has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.100 dated 28.08.2009 registered under Section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act') at Police Station Sadar, District SBS Nagar.

Brief facts of the case are that on 28.08.2009 the police party headed by SI Parminder Singh received secret information that petitioner-Rehmat Ali @ Chunni after purchasing opium from Himachal Pradesh coming towards Nawanshahar via Ropar and if barricading will be conducted at Jandla, he can be apprehended. Upon the said information ruqa was sent and formal FIR was registered. The petitioner and his co-accused Amar Singh were apprehended and on search 1.5 kgs of opium was recovered from them.

Learned Counsel for the petitioner has argued that the

petitioner has been falsely implicated in the case. The petitioner has nothing to do with the alleged recovery. No independent witness was joined by the police at the time of alleged recovery. Mandatory provisions of NDPS Act were not complied with in the present case. Earlier, the petitioner was granted concession of regular bail by the trial Court. The petitioner, who being an illiterate person was under the impression that the FIR was over and thereafter, he did not appear before the trial Court. Subsequently, on 01.12.2012, the petitioner was declared proclaimed offender. The petitioner was again arrested on 30.07.2022 and since then he is in custody. The petitioner is not involved in any other case. Challan has been presented and charges are framed. However, out of 11 prosecution witnesses, none has been examined so far. Trial is likely to take time and no purpose will be served by keeping the petitioner in custody. Therefore, the petitioner may be ordered to be released on regular bail.

On the other hand, learned State Counsel has opposed the present petition in terms of reply filed by way of an affidavit dated 03.11.2022 of Sh. Ranjit Singh, PPS, Deputy Superintendent of Police, Sub Division Nawanshahar which is already on record.

Learned State counsel submits that the petitioner was apprehended by the police for having kept in his conscious possession 1.5 kgs. of opium without any licence or permit. Earlier, he was granted regular bail and thereafter, he intentionally and willfully absconded and did not appear before the trial Court and consequently, he was declared as proclaimed offender vide order dated 01.12.2012. The conduct of the petitioner is also not good. Therefore, the present petition may be

dismissed.

Custody certificate dated 11.01.2023 has also been filed by learned State counsel in the Court today which is taken on record. As per the custody certificate, the petitioner is in custody for last more than 05 months and he is not involved in any other case.

I have heard learned counsel for the parties and gone through the paper-book.

Keeping in view the facts and circumstances of the case, custody period of the petitioner, the fact that the petitioner is not involved in any other case and also the fact that the trial is likely to take long time but without commenting on the merits of the case, I am of the considered view that the petitioner deserves the concession of regular bail.

Accordingly, the present petition is allowed and petitioner-Rehmat Ali @ Chuni is ordered to be released on regular bail subject to furnishing his bail bonds and one heavy local surety to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate concerned.

State will be at liberty to file application for cancellation of petitioner's bail, if he is found involved in any other case under the NDPS Act during the period of bail.

12.01.2023

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**(ASHOK KUMAR VERMA)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No