

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

216

2023:PHHC:115139

CRM-M-42197-2023

Date of decision: September 1st, 2023

Jagjeet Singh @ Kaka

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. P.S. Hundal, Senior Advocate
with Mr. Vikramjeet Singh, Advocate
for the petitioner.

Mr. Amit Rana, Senior Deputy Advocate General, Punjab.

MANJARI NEHRU KAUL, J.

The petitioner is seeking the concession of regular bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.35 dated 28.02.2022 registered under Sections 15 (C), 25, 27, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'the Act') registered at Police Station Talwandi Sabo, Distirct Bathinda.

2. Learned senior counsel submits that the petitioner has been falsely implicated in the case in hand only because he happened to be the owner of the truck from which recovery of 6 quintals and 97 kgs of poppy husk was effected. It has been submitted that the petitioner was not even present when the truck was allegedly intercepted by the police and in fact, he was later on picked up by the police and involved in the case in hand. It has been further submitted that on the fateful day, one of his employees, Tarsem Singh was driving the truck in question while another employee Jasvir Singh @ Seera, who was working as a Cleaner were in the truck, which was allegedly intercepted along with the

recovered contraband. Rather, the above two employees of the petitioner, who are co-accused, had taken his truck away on the pretext of transporting chaff to Rajasthan.

3. Learned senior counsel still further, while drawing the attention of this Court to Annexure P-5 i.e. order of remand, dated 01.03.2022 passed by SDJM, Talwandi Sabo, has asserted that on the face of it, there has been total non-compliance of the provisions of Section 52-A of the Act, as no inventory had been prepared by the police qua the case property and the other bags of salt which were allegedly found in the truck.

4. Learned senior counsel has submitted that since the petitioner has been now in custody for more than 1 year and 6 months after having been arrested on 28.02.2022 and only one prosecution witness out of the 20 cited has been examined so far, he be enlarged on bail as trial would take considerable time to conclude.

5. *Per contra*, learned State counsel while vehemently opposing the prayer and submissions made by learned senior counsel, has submitted that the petitioner was apprehended on the spot which fact finds due corroboration from the consent memo, which had been signed by him, wherein he consented to be searched by a Gazetted Officer. He has further submitted that, thereafter, the search was carried out in the presence of a Gazetted Officer and a huge recovery of 6 quintals and 97 kgs of poppy husk effected from the truck of the petitioner. It has been argued that the recovered contraband is classified as commercial under the Act and it attracts stringent conditions under Section 37 of the Act. It has also been submitted that it was not even the case of the petitioner that there were strained

relations between him and the police and, therefore, he had been falsely implicated in the case in hand. Learned State counsel has further informed the Court that there is another case under the NDPS Act, which stands registered against the petitioner.

6. I have heard learned counsel for the parties and perused the relevant material on record.

7. Though the learned senior counsel for the petitioner has vehemently submitted that it is a case of false implication and there had been non-compliance of provisions of Section 52-A of the Act, however, mere non-compliance, if any, of Section 52-A of the Act at this stage while deciding a petition for bail would not in any manner, come to his rescue. The mandatory provisions of Section 50 of the Act were complied with after the petitioner was allegedly nabbed along with the co-accused, and a huge recovery of 6 quintals and 97 kgs was effected from the truck owned by the petitioner. Hence, in the facts and circumstances as enumerated hereinabove, coupled with the fact that the recovery effected from the truck of the petitioner is classified as commercial under the Act, the petitioner does not deserve the concession of bail.

8. The instant petition, therefore, stands dismissed.

9. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

10. The trial Court shall make earnest efforts to conclude the trial expeditiously.

September 1st, 2023

Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No