

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

CRM-M-45354-2022
Date of Decision:-**17.03.2023**

MALKIT SINGH

... Petitioner

Versus

STATE OF HARYANA

... Respondent

-.-

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

-.-

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

Ms. Harpreet Kaur, AAG, Haryana.

-.-

KARAMJIT SINGH, J. (Oral)

Prayer is for grant of regular bail in case having FIR No.491 dated 17.10.2020 registered under Sections 15/27-A of NDPS Act at Police Station City Fatehabad, District Fatehabad.

The allegations in nut shell are that that co-accused Surrender was apprehended by the police on 17.10.2020 and 1.300 kgs. poppy husk was recovered from his possession and the petitioner was nominated as accused on the basis of disclosure statement made by co-accused Surrender, consequently the petitioner was arrested on 9.2.2021, and is in custody since then.

The counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and the main accused Surender was apprehended by the police from whom police recovered 1.300 kgs. poppy husk, who has already been granted concession of regular bail and that the petitioner is incarcerated for the last more than 2 years. The counsel for the petitioner further submits that the petitioner, in all the other criminal cases whose description is given in the custody certificate, is on bail.

The instant petition is resisted by the State counsel, who on instructions from SI Ramesh Kumar submits that in this case 1.300 kgs. poppy husk was recovered from co-accused Surender who disclosed the name of the petitioner and consequently the petitioner has been arrested but no contraband was recovered from the petitioner in the present case. The State counsel submits that the petitioner is having criminal history as detailed in the custody certificate. However the State counsel has not disputed the custody of the petitioner which is for last more than 2 years.

I have considered the submissions made by counsel for the parties.

The recovery of 1.300 kg. poppy husk that too from co-accused Surender comes under non-commercial quantity, as such, embargo provided under Section 37 of NDPS Act is not applicable in the present case. The co-accused Surender has already been granted benefit of regular bail while the petitioner is incarcerated since last more than 2 years and the trial is at its initial stage and it will take considerable time for the trial to conclude, so no

purpose is going to be served by keeping the accused behind the bars for any longer period.

Thus without commenting on the merits of the case, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail and surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate concerned.

17.03.2023
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No