

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-44396-2023

Date of Decision: 6.11.2023

Rajesh Rai

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Ms. Ramandeep Kaur, Advocate for
Ms. Manpreet Ghuman, Advocate,
for the petitioner.

Mr. Vinay Kumar Gupta, AAG, Punjab

KARAMJIT SINGH, J.

Prayer in this 2nd petition under Section 439 of Code of Criminal Procedure is for grant of regular bail to the petitioner in case FIR No.231 dated 28.9.2022 registered for the offences punishable under Sections 15 of NDPS Act at Police Station Gobindgarh Mandi, District Fatehgarh Sahib.

2. Brief facts of the prosecution case are that 52 KG of poppy husk was recovered from the auto rickshaw owned by Chandan Kumar driven by Munna Kumar and Upinder Kumar, petitioner-Rajesh Rai and Arvind Kumar were also travelling in the said auto rickshaw and the said recovery was effected from the back seat of the auto rickshaw on 28.9.2022.

3. Counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case and that similarly situated co-

accused Arvind Kumar is already enlarged on bail by Coordinate Bench of this Court vide order dated 28.8.2023 passed in CRM-M-20611-2023 and further the trial is not progressing ahead. So, prayer is made that the main petition be released on bail.

4. Present petition is resisted by the State counsel who submits that the present case is relating to recovery of commercial quantity of contraband and thus, rigors of Section 37 of NDPS Act are applicable to the present case. However, the State counsel has not disputed the fact that the petitioner is in custody since 28.9.2022 and that co-accused Arvind Kumar, Upinder Kumar and Chandan Kumar are already granted bail by this Court.

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

6. Present case is relating to recovery of 52 KG of poppy husk which is considered to be marginally higher than the commercial quantity. It is a moot point as to whether the alleged contraband recovered from the auto rickshaw in which the petitioner was travelling is considered to be recovered from the conscious possession of the petitioner. The petitioner is in custody for the last more than 1 year and 1 month and is having no criminal history. Further, similarly situated co-accused Arvind Kumar is already enlarged on bail by Coordinate Bench of this Court and it will take considerable time for the trial to conclude. Thus, no useful purpose is going to be served by detaining the petitioner in custody for any further period.

7. In view of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate

concerned.

(KARAMJIT SINGH)
JUDGE

November 6, 2023
Paritosh Kumar

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