

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

211

CRM-M-45150-2023 (O&M)

Date of decision: 15.09.2023

Gurmej Singh

.

..Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Bikramjit Singh Bajwa, Advocate for the petitioner.

Mr. Baljinder Singh Virk, Sr. DAG, Haryana.

AMAN CHAUDHARY, J.

1. Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in FIR No.266 dated 14.09.2021, registered under Section 15 of NDPS Act, at Police Station Sadar Bahadurgarh, District Jhajjar.

2. Learned counsel contends that the petitioner is in custody for last about 2 years. The alleged recovery effected from the truck, of which the petitioner was a cleaner, is non-commercial quantity of contraband, it being 30 kg. 340 gms. of poppy husk. Co-accused Harjeet Singh, who was the driver of the truck, has been granted regular bail by this Court vide order dated 16.01.2023, Annexure P3. Charges were framed on 03.03.2022 and out of 19 witnesses, only 4 have been examined. He is not involved in any other case under the NDPS Act.

3. The custody certificate dated 14.09.2023, filed by learned State counsel is taken on record, as per which, the petitioner is behind bars for 1 year, 11 months and 25 days.

4. Learned State counsel opposes the bail on the ground the petitioner

was apprehended at the spot and the recovery was effected from the truck in which he was travelling. He is however unable to controvert the submissions made regarding the stage of the case, petitioner being not involved in any other case under the NDPS Act and co-accused has been granted bail.

5. Heard.

6. In view of the foregoing facts and circumstances of the case, in particular that the petitioner is in custody for last 1 year, 11 months and 25 days; not involved in any other case under NDPS Act; co-accused had been granted bail; recovery being non-commercial quantity of contraband, therefore, rigors of Section 37 of NDPS Act are not attracted in the present case; charges stands framed on 03.03.2022 and only 4 out of 19 witnesses have been examined so far; the trial is likely to take a considerable time, thus his further incarceration would not serve any useful purpose, the present petition for grant of regular bail deserves to be allowed.

7. As a result, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to his not being required in any other case. The petitioner shall abide by the following conditions:-

- (i) The petitioner will not tamper with the evidence during the trial.
- (ii) The petitioner will not pressurize/ intimidate the prosecution witnesses.
- (iii) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
- (iv) The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.
- (v) The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/her from

disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.

- (vi) The petitioner shall not in any manner misuse his liberty.
- (vii) The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.
- (viii) The petitioner shall not leave the country without prior permission of the trial Court.
- (ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.

8. It is made abundantly clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

9. In view of the above, it is clarified that the observations made herein are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AMAN CHAUDHARY)
JUDGE

15.09.2023
ashok

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No