

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

CRM-M-45177-2023

Date of Decision: 04.10.2023

Sandeep Masih

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Manoj R. Shrama, Advocate, for the petitioner.

Ms. Akshita Chauhan, Deputy Advocate General, Punjab.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present third petition is for the grant of regular bail to the petitioner in a case FIR No.21 dated 25.04.2022, registered under Sections 18(c) and 29 of NDPS Act, at Police Station Tibber, District Gurdaspur.

Adumbrated facts of the case are that the Police while checking seen a truck bearing No.PB06-AS-7407 coming. On giving signal to stop the vehicle, the vehicle stopped and the person who was sitting next to the driver seat tried to run away, however, he was restrained from doing so. On asking, he disclosed his name Sandeep Masih (petitioner) and the person who was driving the vehicle disclosed his name as Rajinder Singh. Sandeep Masih was apprehended with contraband which was found to be 2.6 kg of opium. The FIR was registered and the investigation commenced. During the investigation, they disclosed about third accused, namely, Pal Singh who was found to be brother of Rajinder Singh. The petitioner approached the Court of Judge, Special Court, Gurdaspur for bail, however, the same was declined vide order dated 22.06.2022. The petitioner on the earlier occasions approached this Court by way of filing CRM-M-35530-2022,

which was allowed to be dismissed as withdrawn vide order dated 16.03.2023 and thereafter, CRM-M-19730-2023, however, the same was dismissed as not pressed vide order dated 27.04.2023. Hence, the petitioner has approached this Court again by way of filing the present third petition for grant of bail.

Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely and frivolously implicated in this case. He has submitted that recovery allegedly got effected in this case is 2.6 Kg of opium. He submits that the same is marginally above the non-commercial quantity. He has submitted that as per case of the prosecution, the driver and the owner of the truck, are also co-accused in this case. He submits that the petitioner was allegedly shown to be sitting alongwith the driver. He submits that co-accused Rajinder Singh i.e. the driver of the truck has been granted bail by this Court vide order dated 31.08.2023. He submits that though the petitioner is involved in other cases, however, he is on bail in those cases. He submits that as similarly situated co-accused has already been granted bail by this Court, the petitioner deserves to be granted bail.

On the other hand, learned State counsel has opposed the submissions made by learned counsel for the petitioner. She has submitted that the petitioner is a habitual offender. It is submitted that the petitioner was arrested on the spot. She submits that out of total 14 prosecution witnesses, 2 witnesses have been examined. However, she submits that co-accused Rajinder Singh has been granted bail by this Court vide order dated 31.08.2023.

Heard.

Evidently, the petitioner is behind bars since 25.04.2022. As submitted before this Court, out of total 14 prosecution witnesses, 2

witnesses have been examined. The alleged recovery effected from the petitioner is 2.6 kg of opium, which is just above the non-commercial quantity i.e. 2.5 kg. Though the petitioner is involved in other criminal cases, however, he is on bail in those cases. Even otherwise the pendency of other cases in itself would not be a bar to grant the bail to the petitioner, when the co-accused has already been granted bail by this Court vide order dated 31.08.2023. This Court would refrain itself from commenting anything on merits of the case. However, considering the prayer for grant of bail to the petitioner, I am of the view that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner. The trial would take sufficiently long time in its conclusion.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail to the satisfaction of the concerned trial Court/Duty Magistrate.

Nothing said herein shall be treated as an expression of opinion on the merits of the case.

04.10.2023			(RAJESH BHARDWAJ)
sharmila			JUDGE
	Whether Speaking/Reasoned	:	Yes/No
	Whether Reportable	:	Yes/No