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IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

CRM-M No. 45991 of 2023  
Date of Decision: 19.09.2023

JAGTAR SINGH @ TARA

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Kanwaljit Singh Brar, Advocate  
for the petitioner.

Mr. Anmol Singh Sandhu, AAG, Punjab.

.....

SANJIV BERRY, J. (ORAL)

The instant petition has been preferred by the petitioner under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in the following case (Annexure P-1) :-

| FIR No. | Dated      | Sections       | Police Station                  |
|---------|------------|----------------|---------------------------------|
| 76      | 15.07.2023 | 15 of NDPS Act | City 2 Abohar, District Fazilka |

2. It is, *inter alia*, contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case.

He submits that as per the case of the prosecution 4 Kgs of Poppy Husk

was recovered from the possession of petitioner and co-accused Gurjant Singh when apprehended by the police on 15.07.2023. He submits that co-accused Gurjant Singh has already been granted concession of bail, whereas the petitioner is still in custody and hence he prayed for grant of bail.

3. On the other hand, learned State counsel has opposed the bail application by arguing that although the recovery effected from the petitioner is small in quantity i.e. 4 Kgs. of Poppy Husk but submitted that he was involved in another case bearing FIR No. 10 dated 30.01.2010 under Section 15 of the NDPS Act, PS Sadar Faridkot, District Faridkot. He submits that challan has been presented in Court but till date no witnesses has been examined.

4. After considering the rival contentions and perusing the record, it transpires that as per the case of the prosecution, police party headed by ASI Milkh Raj on patrolling duty, apprehended petitioner along with co-accused in the area of Radha Soami Satsang Ghar, Abohar, while carrying bags on their shoulder and on apprehension they were stopped and search of bags were conducted leading to recovery of 4 Kgs of Poppy Husk from the bags of the petitioner and the co-accused. Admittedly the petitioner was involved in another case under NDPS Act in 2010 as is mentioned in the petition and the same was regarding recovery of Poppy Husk and on conviction, the appeal has been preferred in this Court in 2012. As per learned counsel for the petitioner, in that case also there was recovery of 4 kgs. of Poppy Husk. However, the learned State counsel admitted that there is no other case involving the petitioner under NDPS Act thereafter, till the

present case. The Challan has already been presented, meaning thereby the petitioner is no more required for further investigation of the case. The examination of the witnesses and conclusion of trial may take a sufficient long time and no purpose would be served by keeping the petitioner in custody any longer.

5. Keeping in view the fact that the alleged recovery of contraband from the petitioner is of non commercial in nature i.e. 4 kgs. of Poppy Husk, in these circumstances, without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail subject to furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court concerned; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

6. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)  
JUDGE

19.09.2023  
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|-----|----------------------------|--------|
| i)  | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable?        | Yes/No |