

CRM-M-45998-2023
Date of decision: 29.11.2023

....Petitioner

...Respondent

Ms. Navreet Kaur Barnala, AAG, Punjab.

The FIR was lodged on the statement of Sub Inspector Raj Kumar CIA, Rupnagar on the allegations that on 17.09.2022, he was present near Government High School Village Rattangarh in his official vehicle for checking the anti social elements. At about 05:00 P.M., one truck coming from Chuni side was signalled to stop. The truck driver tried to flee and he was apprehended by the police officials. On checking of the truck, three turbaned persons were found there and from the cabin of the truck, three blue coloured plastic bags containing poppy husk were recovered and FIR under Section 15 of the Act was registered at Police Station City Morinda.

CRM-M-45998-2023

-2-

Learned counsel for the petitioner *inter alia* contends that the petitioner is alleged to be the driver of the truck from which the recovery of 54 kg of poppy husk (marginally higher than the commercial quantity) was effected and the petitioner has no connection with the alleged recovery and his conscious possession over the seized contraband is not proved. The owner of the truck, namely, Nirmal Singh @ Bugga, was carrying three bags of poppy husk in the truck and the petitioner was not aware of the contents of the plastic bags. The petitioner has been in custody since 17.09.2022 and out of total 13 prosecution witnesses 06 have been examined. He further submits that similarly situated, co-accused, namely, Nirmal Singh @ Bugga has been granted regular bail by this Court vide order dated 06.07.2023 passed in CRM-M-3998-2023 titled as 'Nirmal Singh @ Bugga Vs. State of Punjab'.

Per contra, the learned State counsel opposes the grant of regular bail to the petitioner on the ground that the quantity involved in the present case is commercial in nature and as such, the petitioner is not entitled to the relief of regular bail in view of the embargo created by Section 37 of the NDPS Act. However, learned State counsel could not controvert the fact that the similarly situated co-accused has already been granted the concession of regular bail by this Court on 06.07.2023.

A two Judge Bench of Hon'ble Supreme Court in '**Satender Kumar Antil v. CBI**' (2022) 10 SCC 51, with respect to prevailing conditions of undertrial prisoner in India has observed:

"6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the

CRM-M-45998-2023

-3-

prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”

This Court in ‘**Rajender Singh @ Raju Vs. State of Haryana**’ and ‘**Iqbal Singh Bali Vs. State of Punjab**’ 2022 (2) Law Herald 1493, while dealing with the issue of granting bail in a case in which the quantity of the alleged contraband is marginally higher than the commercial quantity, granted bail to the accused therein.

Having heard learned counsel for the parties and perusing the records of the case, it transpires that the petitioner is behind the bars for more than one year. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court on 12.01.2023. The trial of the case would take long time to conclude.

Keeping in view the facts and circumstances of the case, the fact that the petitioner is not involved in any other case and the likelihood of trial being prolonged, the present petition is allowed. Culpability, if any, would be

CRM-M-45998-2023

-4-

determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioner. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioner-Sajjan Singh is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

(HARPREET SINGH BRAR)
JUDGE

29.11.2023
Neha

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