

CRM-M-46553-2023 (O & M)

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(202) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-46553-2023 (O & M)
Date of Decision: 22.12.2023

Chamakaur Singh @ Kauri

... Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Parminder Singh Sekhon, Advocate,
for the petitioner.

Mr. Harkanwar Jeet Singh, AAG, Punjab.

JASJIT SINGH BEDI, J.

The prayer in this petition under Section 439 Cr.P.C is for the grant of regular bail to the petitioner in case bearing FIR No.47 dated 08.05.2022 under Sections 15, 25 and 29 of the NDPS Act, 1985 registered at Police Station Barnala, District Barnala.

2. The brief facts of the case are that one swift car bearing No.DL-12CC-6938 was seen coming with two persons occupying it. On seeing the police party, they tried to take a U-turn immediately but were apprehended. The driver of the car disclosed his name as Gurpreet Singh and the persons sitting on the conductor seat disclosed his name as Paramjit Singh @ Pammi. On a search of the car, 110 kilos of poppy husk came to be recovered.

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During investigation, on 15.05.2022, Geeta Kaur wife of Balvir Singh @ Beeru got recorded her statement with the police that Paramjit Singh @ Pammi (arrested at the spot) and Piara Singh @ Nikka were relatives of Chamkaur Singh @ Chamakaur Singh @ Kauri (petitioner) and the petitioner, Paramjit Singh and Piara Singh used to take the poppy husk from one Akram, resident of Bareilly and would sell the same to the customers through Chamkaur Singh @ Kauri. On the basis of the said statement, Piara Singh @ Nikka and Chamkaur Singh @ Kauri were nominated as accused and the offence under Section 29 of the NDPS Act was added in the present case vide DDR No.14 dated 15.05.2022.

3. The learned counsel for the petitioner contends that the petitioner had been falsely implicated in the present case. The arrested accused did not name the petitioner. However, a third person, namely, Geeta Kaur got recorded her statement to the effect that the petitioner in connivance with others was dealing in the sale and purchase of poppy husk. He contends that the said statement has absolutely no evidentiary value because even post the arrest of the petitioner, no recovery whatsoever had been effected from him. As the petitioner was in custody since 09.08.2023 and only 08 out of the 14 prosecution witnesses had been examined so far, the trial of the present case was not likely to be concluded anytime soon, and therefore, the petitioner was entitled to the concession of bail even though he was a convict in two other cases under the NDPS Act arising out of FIR No.367/07.10.1999 under Section 15 of the NDPS Act, Police Station Samana and FIR

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No.85/15.06.2008 under Section 15 of the NDPS Act, Police Station Amargarh.

4. The learned counsel for the State, on the other hand, has filed a reply dated 22.12.2023. The same is taken on record. While referring to the said reply, he contends that the petitioner was named in the statement of one Geeta Kaur wife of Balvir Singh @ Beeru, as per which the petitioner and his co-accused including the arrested accused-Paramjit Singh @ Pammi were involved in the sale and purchase of the poppy husk. Further, he was a convict in two other cases under the NDPS Act. Therefore, in view of the provisions of Section 37 of the NDPS Act, he was not entitled to the concession of bail. He, however, concedes that the petitioner was in custody since 09.08.2023 and that only 08 of the 14 prosecution witnesses had been examined so far.

5. I have heard the learned counsel for the parties.

6. Admittedly, the petitioner is not named in the FIR. Even when his co-accused, namely, Gurpreet Singh and Paramjit Singh @ Pammi were arrested, they did not name the petitioner. It was only a third person, namely, Geeta Kaur on whose statement the petitioner came to be nominated as an accused. The evidentiary value of the said statement shall be adjudicated upon during the course of the Trial. The petitioner is in custody since 09.08.2023 and only 08 of the 14 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation, a *prima facie* satisfaction under Section 37 of

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the NDPS Act can be arrived at and the case of the petitioner can be considered for the grant of bail.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Chamakaur Singh @ Kauri is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other cases(s)/crime other than the cases referred to in this order.

9. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.2,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

December 22, 2023
sukhpreet

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No