

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

**210**

**CRM-M No.49272 of 2022**

**Date of Decision : 11.01.2023**

Jaswant Pal Singh

....Petitioner

**VERSUS**

State of Punjab

....Respondent

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present : Ms. Garima Sharma, Advocate for the petitioner.

Mr. Y.S. Bhangu, AAG Punjab.

**ALKA SARIN, J. (Oral)**

This is the second petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.82 dated 16.04.2020 under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Lalru, District SAS Nagar (Mohali). The earlier petition being CRM-M-36134-2022 was dismissed as withdrawn on 12.10.2022.

Learned counsel for the petitioner would contend that the petitioner has been in custody for a period of about 01 year and 05 months and that out of a total 18 prosecution witnesses only 02 have been examined till date. Learned counsel for the petitioner would further contend that one more case is pending against the petitioner, however, he is on bail in the said case. It is further contended by learned counsel for the petitioner that the owner of the Canter, namely, Jasbir Singh, has since been granted bail by this Court vide order dated 04.08.2022 passed in CRM-M-24390-2022.

On merits, it has been contended by learned counsel for the petitioner that the story put forth in the FIR was that the vehicle being EICHER Canter was seen coming at about 02.00 a.m. and the driver of the

Canter stopped it 15 to 20 yards before the *naka* and fled from the vehicle. It has further been stated in the FIR that Hawaldar Daler Singh with the help of a torch light recognized the driver and stated that he was Jaswant Pal Singh son of Karnail Singh (petitioner herein) and the other person was recognized by ASI Shiv Charan Singh with the help of a torch light that he was Jasbir Singh. It has further been stated in the FIR that poppy-husk was recovered from the said Canter and that the Canter was registered in the name of Jasbir Singh, who was the petitioner in CRM-M-24390-2022.

Learned State counsel on instructions from ASI Rajinder Singh has stated that out of a total 18 prosecution witnesses only 02 have been examined till date. However, he is not in a position to deny the fact that the petitioner has been in custody for a period of about 01 year and 05 months. He is also not in a position to deny the fact that the owner of the Canter, namely, Jasbir Singh, has since been granted bail by this Court vide order dated 04.08.2022 passed in CRM-M-24390-2022. It is however contended by learned State counsel that recovery from the Canter was 448 kgs. of poppy-husk and hence this was not a fit case for grant of regular bail.

Heard.

In the present case though the FIR was registered on 16.04.2020, however, the petitioner herein was arrested on 04.08.2021. There is also no explanation forthcoming as to how Hawaldar Daler Singh was in a position to identify the petitioner herein whom he claimed to be the driver of the vehicle from which the poppy-husk is stated to have been recovered.

Keeping in view the fact that the petitioner has been in custody for a period about 01 year and 05 months and that out of a total 18 prosecution witnesses only 02 have been examined and further that the co-accused, namely, Jasbir Singh, has since been granted bail vide order dated 04.08.2022 passed in CRM-M-24390-2022, I deem it appropriate to allow the present petition.

In view of the above and without commenting upon the merits of the case, I deem it fit to grant the concession of regular bail to the petitioner. The petitioner is directed to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate/Trial Court concerned.

However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

Disposed off. Pending applications, if any, also stand disposed off.

11.01.2023  
jk

( ALKA SARIN )  
JUDGE

NOTE: Whether speaking/non-speaking: Speaking  
Whether reportable: YES/NO