

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

219

CRM-M-49679-2022
Date of decision: 06.02.2023

GURSEWAK SINGH @ GURI @ GURPREET SINGH

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. N. S. Dandiwal, Advocate
for the petitioner.

Mr. Manipal Singh Atwal, DAG, Punjab.

AMAN CHAUDHARY. J.

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in respect of FIR No. 207 dated 29.12.2009 under Sections 15 and 61 of the NDPS Act, 1985 registered at Police Station Sujanpur, Dist. Gurdaspur, now District Pathankot.

Learned counsel for the petitioner contends that the petitioner has been in custody since 26.08.2022 on having surrendered before the trial Court. The alleged recovery effected from him is 11 Kg. poppy husk which is non commercial as per the schedule in the NDPS Act. The petitioner is not involved in any other case and he has a minor child aged about 3 months. Charges are yet to be framed in the present case and in all, there are 8 prosecution witnesses.

Learned State counsel opposes the bail on the ground that the petitioner had been apprehended on the spot with the contraband as has been stated by learned counsel for the petitioner and he remained proclaimed offender.

However, he is unable to controvert the fact that the alleged recovery being non commercial; the petitioner being not involved in any other case and also the stage of the trial.

In response to the contention of learned State counsel, it is contended by learned counsel for the petitioner that he was informed by his learned counsel that he has been acquitted in the aforesaid case and it is the petitioner, who had himself surrendered before the trial court on 26.08.2022.

Heard.

In view of the facts and circumstances of the case, in particular that the petitioner has been in custody since 26.08.2022; non-commercial quantity of contraband is alleged to have been recovered from him; he is not involved in any other case, charges are yet to be framed and in all, there are 8 prosecution witnesses, the trial is likely to take a considerable time, his further detention behind bars would not serve any useful purpose, thus the present petition for grant of regular bail deserves to be allowed.

As a result, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to him not being required in any other case. The petitioner shall abide by the following conditions:-

1. The petitioner will not tamper with the evidence during the trial.
2. The petitioner will not pressurize/ intimidate the prosecution witnesses.
3. The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
4. The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.
5. The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the

case so as to dissuade him/ her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.

- 6. The petitioner shall not in any manner misuse his liberty.
- 7. The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.
- 8. The petitioner shall deposit his passport, if any, with the Trial Court forthwith and in case, he does not have the passport, he shall furnish a specific affidavit in this regard.

It is made clear that in case of any infraction of any of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

In view of the above, this Court makes it clarified that the observations made herein above are limited for the purpose of present proceedings and would not be construed as any opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AMAN CHAUDHARY)
JUDGE

06.02.2023
Mehak

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