

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

CRM-M-50047-2023**Date of Decision: 07.12.2023**

Balwant alias Balraj

...Petitioner

vs.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat**Present :** Mr. Prabhdeep Singh Bhandari, Advocate
for the petitioner.

Mr. Gaurav Gurcharan Singh Rai, DAG, Haryana.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail to him in case FIR No.11 dated 12.01.2019 registered under Sections 15, 27-A, 29 (added later on) NDPS Act, at Police Station City Ratia, District Fatehabad.

2. As per the case of the prosecution, a secret information was received to the effect that Richhpal @ Rishal resident of Kaulgarh was indulging in illicit business of selling poppy husk in the area of Ratia. He was intercepted by the police party, but he fled from the spot, leaving behind 10 kgs of poppy husk at the spot. Later on, Richhpal @ Rishal was joined in the investigation and suffered a disclosure statement. Another accused Mukhtiar Singh was also joined and had suffered a disclosure statement. On the basis of the disclosure statement suffered by co-accused, the petitioner was also arrayed as an accused in the present case and it was alleged that the petitioner had supplied the contraband to his co-accused.

3. Learned counsel for the petitioner contends that the petitioner has been falsely involved in the present case on the basis of the statement suffered by his co-accused in police custody and nothing was recovered from him. He was arrested on 10.01.2020. Even otherwise, the recovery of contraband from his co-accused was non-commercial in nature. He further contends that in the present case, challan has already been presented and only 04 witnesses, out of total 14 witnesses, have been examined so far. Thus, further custody of the petitioner will not serve any meaningful purpose.

4. On the other hand, learned State counsel has resisted the submissions made by learned counsel for the petitioner on the ground that two more cases under NDPS Act have been registered against him. However, he admits that the petitioner is on bail in both the cases.

5. I have heard the learned counsel for the parties and perused the record.

6. In the present case, the petitioner is continuing in custody for the last 3 years and 10 months. Apart from that, the trial is proceeding at snail's pace and only four witnesses have been examined so far.

7. Without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned, subject to the following conditions:-

- (i) *The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such*

facts to the Court or to any other authority.

- (ii) The petitioner shall remain present before the Court on the dates fixed for hearing of the case.*
- (iii) The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.*
- (iv) The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.*
- (v) The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.*
- (vi) In case, the petitioner involves in any other criminal activity, during the pendency of the trial, it shall be viewed seriously and the prosecution shall be at liberty to move a petition for cancellation of bail granted to him.*
- (vii) The concerned Court may insist on two heavy local surties and may also impose any other condition, in accordance with law, while accepting the bail bonds and surety bonds of the petitioner.*
- (viii) The petitioner shall report every 1st Monday of English calander month before the concerned SHO till the conclusion of the trial and SHO shall mark his presence by making an entry in the rojnamcha. In case, he does not report on every 1st Monday before the concerned SHO, it shall be viewed seriously and the concession granted to him shall be liable to be cancelled and the State of Haryana shall be at liberty to move an appropriate application in this regard.*

07.12.2023

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(N.S.SHEKHAWAT)
JUDGE

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