

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

**CRM-M-51742-2023**

**Date of Decision:17.10.2023**

Arshpreet Singh alias Arsh

...Petitioner

VS.

State of Punjab

...Respondent

**Coram :    Hon'ble Mr. Justice N.S.Shekhawat**

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

Mr. M.S.Bajwa, Deputy Advocate General, Punjab.

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**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.229 dated 24.11.2022 registered under Section 15 of NDPS Act, at Police Station Salem Tabri Ludhiana, District Ludhiana.

2.            The FIR in the present case was registered on the basis of the statement made by ASI Pawanjeet Singh, who alongwith other police officials, were on patrolling duty. While the police party was patrolling, they reached near gate No.2 of Vegetable Market, Ludhiana and found one truck parked there and one person was seen carrying a heavy polythene bag. On suspicion, the complainant called the said person and he got perplexed and threw away the polythene bag on the road. He tried to run away from the spot, but he was apprehended by the police officials. After following the procedure, he was arrested at the spot and two bags containing 52 kgs of poppy husk were recovered from him.

3. Learned counsel for the petitioner contends that in the present case, the alleged recovery of 52 kgs of poppy husk is marginally higher than the 'non-commercial quantity'. He further contends that the petitioner was arrested in the present case on 24.11.2022 and is in custody for the last more than 10 months. He further contends that after conducting the investigation, the final report under Section 173 Cr.P.C. has already been presented before the Court and charges have been framed against the petitioner. He further contends that out of 14 prosecution witnesses, no witness has been examined so far. Learned counsel for the petitioner has also placed reliance upon the judgments passed by Co-ordinate Benches of this Court in (i) CRM-M-37684-2021, Balwinder Singh Vs. State of Punjab, decided on 14.02.2022; (ii) CRM-M-8212-2022, Tajinder Singh Vs. State of Punjab, decided on 03.03.2022 and (iii) CRM-M-35186-2016, Manjit Kaur @ Jeeto vs. State of Punjab, decided on 01.12.2016, whereby the petitioners in the said cases were granted the concession of bail, wherein the accused were arrested with the quantity of the contraband, which was marginally above the 'commercial quantity'.

4. On the other hand, learned State counsel has vehemently opposed the prayer made by learned counsel for the petitioner on the ground that in view of the bar contained in Section 37 of NDPS Act, the petitioner is not entitled to any relief from this Court. He, however, admits that there is no other criminal case against the present petitioner.

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

6. The petitioner is in custody since 24.11.2022 and after conclusion

of the investigation, the final report under Section 173 Cr.P.C. has already been presented against him. He is a first offender and was never involved in any other criminal activity and in considered opinion of this Court that he must be given a chance to reform himself.

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 sureties and may also impose any other condition, in accordance with law, while accepting the bail bonds and surety bonds of the petitioner.*

17.10.2023  
hemlata

(N.S.SHEKHAWAT)  
JUDGE

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