

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

CRM-M-56078-2022

Date of decision : 12.07.2023

Mudasir Bashir Tantre

...Petitioner

Vs.

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Kunal Choksi, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

MANOJ BAJAJ, J.

Petitioner has filed this second petition under Section 439 Cr.P.C for grant of regular bail pending trial in case FIR No.104 dated 27.07.2020 registered under Sections 15, 25, 61 and 85 of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Sidhwan Bet, District Ludhiana, who is in custody since his arrest on 27.07.2020.

The allegations in the FIR, as noticed by the learned Judge, Special Court, Ludhiana, in the order dated 22.01.2021 are as under:-

“as per secret information, the applicant used to bring poppy husk in huge quantity from Jammu and Kashmir after concealing the same below the boxes of apples in Truck bearing No. JK-05-E-7239 and on the basis of said information, the police picket was laid and the applicant was apprehended with abovesaid truck leading to recovery of 5 quintal 10 kg poppy husk besides 100 boxes of apples. ”

Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case being driver of the truck bearing No. JK-05-E-7239 on the ground that he was transporting recovered

contraband weighing 05 quintal 10 Kg of poppy husk. He submits that the petitioner is not the owner of the vehicle and therefore, it cannot be said that the recovered contraband belongs to him as he was transporting apples, which were also contained in the same vehicle. According to him, petitioner is not involved in any other case. He further submits that the petitioner is in custody for approximately last three years and the trial is yet to conclude, therefore, he be released on regular bail.

Learned State counsel assisted by ASI Daljeet Singh while opposing the prayer argued that the recovered contraband falls within the ambit of commercial quantity and he being driver of the vehicle is well aware of the goods loaded in the truck. He submits that in all there are 14 prosecution witnesses and only 02 witnesses have been examined and the case is now coming up for recording further prosecution evidence before the trial Court on 19.07.2023. He prays that the petition be dismissed.

After hearing the learned counsel for the parties and considering their rival submissions, it comes out that as per prosecution 05 quintal 10 Kg of poppy husk was being transported in the vehicle driven by the petitioner and he was arrested at the time of recovery. During the course of hearing, learned counsel for the petitioner is unable to show any document relating to the transportation of 100 boxes of apples much less the details of the consignor or the consignee. This Court does not find any force in the argument that as the petitioner is only a driver of the vehicle, therefore, he cannot be connected to the recovered narcotic substance as the prosecution evidence is yet to conclude.

Thus, considering the quantity, nature of the contraband as well as seriousness of the offence, this Court is not inclined to extend the concession

of regular bail to the petitioner at this stage.

Dismissed.

12.07.2023

neeraj

Whether speaking/reasoned :

Whether Reportable :

Yes

Yes

(MANOJ BAJAJ)

JUDGE

No

No