

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

220

CRM-M-57420-2022
Date of decision: 23.02.2023

SUBOD KUMAR YADAV

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. G. S. Sandhu, Advocate
for the petitioner.

Mr. Kamalpreet Bawa, AAG, 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. 79 dated 23.09.2022 under Section 18(A) of the NDPS Act, 1985 registered at Police Station Bariwala, District Sri Muktsar Sahib.

Learned counsel for the petitioner contends that the petitioner has been in custody for the last 4 months and 28 days having been arrested in the grain market carrying a transparent polythene bag containing 420 gms. of opium. The quantity of contraband recovered from him is non commercial in nature as per the schedule in the NDPS Act. Challan has been presented; charges have been framed on 03.01.2023; however, there are a total of 15 prosecution witnesses, but none has been examined. He further submits though there is one more FIR against the petitioner, however, his name has been surfaced therein based on the disclosure statement of the co-accused, in which he has named 15 persons including the

petitioner. The petitioner has surrendered in the said case and has been granted regular bail by the Jharkhand High Court on 13.02.2020. No recovery had been effected from the main accused or anyone else including the petitioner and the allegations are of cultivating contraband. Even the main accused has been granted bail in that case.

Learned State counsel has filed custody certificate which is taken on record, confirming the custody to be of 4 months and 28 days. He opposes the bail on the ground that contraband has been recovered from the petitioner and there is one more FIR against him. However, he is unable to controvert the other submissions made by learned counsel for the petitioner in particular with regard to to the fact of recovery effected from him being non commercial and stage of the trial.

Heard.

In view of the abovesaid facts and circumstances of the case, in particular that the petitioner has been in custody for the last 4 months and 28 days; recovery effected from him is non-commercial, therefore, rigors of Section 37 of NDPS Act are not attracted in the present case; in the other case neither has there been any recovery effected from main accused nor from the petitioner, who was named in disclosure statement and is on bail; charges have been framed on 03.01.2023; in all, there are a total of 15 prosecution witnesses but none has been examined yet; the trial is likely to take sufficiently long 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

23.02.2023

Mehak

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