

CRM-M No.55794 of 2023(O&M) -1- 2023:PHHC:153655

112+208 IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No. 55794 of 2023(O&M)

Date of Decision:- 02.12.2023

FEROZ KHAN

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Yashpal Thakur, Advocate,
 for the petitioner.

 Mr. Vishal Malik DAG, Haryana.

.....

SANJIV BERRY, J. (ORAL)

CRM 49662 of 2023

1. The application is for early hearing of the main case. Main case is also listed today, therefore the application is rendered infructuous.
2. Disposed of as infructuous.

Main case

1. The instant petition has been preferred by the petitioner under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in the following case :-

FIR No.	Dated	Sections	Police Station
211	13.08.2023	15 of the NDPS Act	Sadar Ambala, District Ambala

2. In nutshell, the case of the prosecution is that a secret information was received to the patrolling police party that Feroz Khan, who is in the habit of selling poppy straw, is moving towards his Village Behar, District Fatehgarh Sahib, Punjab in his vehicle and if he is apprehended by installing Naka poppy straw will be recovered. Police party installed Naka and at around 5.15 p.m. one person was spotted in vehicle Asoka Leyland PB-11 DA-9247, the same was stopped and on asking he disclosed his name as Feroz Khan and on suspicion search of his vehicle was conducted and 29 kg of poppy husk was recovered from his vehicle, and hence the FIR was registered.

3. It is *inter alia* contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case. He submits that the alleged contraband i.e. poppy straw recovered from the vehicle is 29 kg which is non commercial in nature. The petitioner is not having any other case under NDPS Act registered against him and he was arrested on 13.08.2023, challan has already been presented in the Court, as such he prays for grant of concession of bail.

4. Learned State counsel has opposed the bail application by arguing that keeping in view the nature and gravity of the offence, he prays for dismissal of the petition.

5. After considering the rival contentions and perusing the record, it transpires that as per the allegations police had recovered 29 Kg of Poppy Husk from the vehicle of the accused Feroz Khan, and he was arrested on 13.08.2023 and since then he is in custody. There is no other case of NDPS Act pending against the petitioner. The recovery effected in the present case

does not fall within the purview of commercial quantity. The conclusion of trial will take sufficient long time to ascertain criminal liability, if any, on the petitioner and considering the quantity of the contraband, no purpose would be served by detaining the petitioner any longer.

6. Consequently, without commenting on the merits of the case, it is observed that no purpose would be served in keeping petitioner behind bars. Therefore, the present petition is allowed. The petitioner is ordered to be released on bail subject to furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court concerned, if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

7. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

8. Pending miscellaneous applications, if any, also stand disposed of.

(SANJIV BERRY)
JUDGE

02.12.2023

Gyan

i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No