

CRM-M-55353-2023
Date of decision: 16.11.2023

Versus

State of Haryana ...Respondent

Present: Ms. Divya Narula, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

The brief facts of the case are that on 18.09.2023, a police party headed by ASI Jasbir Singh, on the basis of secret information, apprehended the petitioner-Bhola Singh and co-accused-Bhajno Bai @ Chhamo Bai. After conducting legal proceedings, search was conducted and 20 kg 790 grams of poppy husk containing in two plastic bags (*katte*) was got recovered from the petitioner and co-accused-Bhajno Bai @ Chhamo Bai in the presence of Sh. Shalinder Singh, ETO, Fatehabad and thus, the present FIR got registered.

Learned counsel for the petitioner *inter alia* contends that the alleged contraband which was seized in the present case is nearly 20 kg 790 grams of poppy husk which falls under the non-commercial quantity and the main allegations as per the case set up by the prosecution, is against the accused, namely, Bhajno Bai @ Chhamo Bai. He further submits that the petitioner is in custody since 18.09.2023. The trial is yet to be commenced and there is likelihood that it would take long time in its final adjudication.

Per contra, the learned State counsel, on instructions from SI Ram Chander, opposes the grant of regular bail to the petitioner on the ground that the petitioner is involved in two other cases under the NDPS Act and produces the custody certificate. Perusal of the custody certificate indicates that the petitioner is already on bail in both cases.

Having heard learned counsel for the parties and perusing the records of the case, it transpires that the petitioner is behind the bars for more than 01 month. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court.

As far as arguments of learned State counsel for rejection of bail of the petitioner due to his involvement in two more cases under the NDPS Act is concerned, it has to be seen in the light of the law laid down by Hon'ble Supreme court in **'Prabhakar Tewari Vs. State of U.P. and another'** 2021 (1) RCR (Criminal) 831 and also the decision dated 18.07.2023 passed by Hon'ble Supreme Court in Special Leave Petition (Crl.) No.4637/2023, titled as **'Subhabrata Roy @ Bapi Roy @ Roy Bapi Vs. State of West Bengal'** vide which the appellant therein who had as many as 19 cases, including 02 cases under the NDPS Act, registered or pending against him, has since been granted

the benefit of bail.

Keeping in view the period of incarceration and since the challan has already been presented against the petitioner and the likelihood of trial being prolonged, the present petition is allowed. Culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioner. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioner-Bhola Singh is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

(HARPREET SINGH BRAR)
JUDGE

16.11.2023
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No