

CRM-M-58247-2023

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(230)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-58247-2023

Date of Decision: 23.11.2023

UDAY YADAV

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Deepak Nayar, Advocate
for the petitioner.

Mr. Harkanwar Jeet Singh, Asstt. A.G., Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.120 dated 04.07.2023 registered under Sections 18 and 29 of the NDPS Act, 1985 at Police Station GRP Ludhiana, District Govt. Railway Police/Ludhiana.

2. The brief facts of the case are that while the police party was on patrolling duty, two persons were seen coming, one aged about 44 years holding a black bag canvas colour and the other person aged about 40 years holding a black/blue coloured bag in their hands. On seeing the police party, they tried to escape from the spot but were apprehended on suspicion. The first person who was of the age of about 44 years disclosed his name as Parmod Kumar Gupta (granted bail vide order dated 17.10.2023 passed in CRM-M-49406-2023) son Late Ram Dev Saw whereas the second person aged about 40 years disclosed his name as Uday Yadav (petitioner) son of

Late Kirat Yadav. 1.300 Kgs opium came to be recovered from the bag carried by the Parmod Kumar Gupta whereas 700 grams of opium came to be recovered from the bag carried by the petitioner.

3. The learned counsel for the petitioner contends that the petitioner and his co-accused have been falsely implicated in the present case. The mandatory provisions of search and seizure including Sections 42 and 50 of the NDPS have not been complied with. As the petitioner was a first-time offender, in custody since 04.07.2023, none of the 09 prosecution witnesses had been examined so far and the recovery was of a non-commercial quantity of opium, the commercial quantity being 2.5 Kg, the petitioner was entitled to the concession of bail moreso when his co-accused Parmod Kumar Gupta had been granted the similar relief.

4. On the other hand, the learned State counsel contends that the offence is well-established from the evidence available on record. Offences of these kinds were on the rise and therefore, the petitioner was not entitled to the grant of bail. He, however, concedes that the petitioner is a first-time offender, in custody since 04.07.2023, none of the 09 prosecution witnesses had been examined so far and the fact that the alleged recovery from the petitioner is of a non-commercial quantity moreso the co-accused Parmod Kumar Gupta had been granted the concession of bail.

5. I have heard the learned counsel for the parties.

6. Admittedly, the recovery is of 1.300 Kgs opium which is a non-commercial quantity. The bar contained under Section 37 of the NDPS Act would not apply to the petitioner. He is stated to be in custody since

04.07.2023 and none of the 09 prosecution witnesses have been examined so far. Therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation, his further incarceration is not required moreso his co-accused namely, Parmod Kumar Gupta had been granted the concession of bail.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Uday Yadav son of Krit Yadav is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the present case.

9. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.25,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

23.11.2023

JITESH

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