

CRM-M-59336-2023
Date of decision: 30.11.2023

Versus

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 439 Cr.P.C. seeking regular bail in a case bearing FIR No.371 dated 20.09.2023 under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') registered at Police Station Matlauda, District Panipat.

The present FIR was lodged on the basis of secret information received by ASI Mahabir Singh that petitioner-Karan Jeet Singh @ Karanjeet @ Sonu was coming from the side of Gohana Safidon and if barricade is placed on the road, a heavy quantity of intoxicating substance can be recovered from him. The Investigating Officer prepared the report under Section 42 of the NDPS Act and sent the same to the higher police officials through Constable Narinder. Thereafter, the check post was created on the road and a young man was seeing coming towards the barricades and he was intercepted with the help of police party. On search, 09 kg of poppy husk was recovered from the plastic bag

carried by the petitioner on his shoulder.

Learned counsel for the petitioner *inter alia* contends that no independent witness has joined during the investigation to lend credence to the investigation carried out by the Investigating Agency. Even the incomplete challan has been presented in the Court. The FSL report has not been filed and the alleged contraband recovered from the petitioner falls under the non-commercial quantity. He further submits that he is involved in one more case under the NDPS Act for keeping 01 kg 800 grams of poppy husk in his possession.

Per contra, the learned State counsel opposes the grant of regular bail to the petitioner on the ground that he is a habitual offender and involved in one more case under the NDPS Act.

A two Judge Bench of Hon'ble Supreme Court in '***Satender Kumar Antil v. CBI***' (2022) 10 SCC 51, with respect to prevailing conditions of undertrial prisoner in India has observed:

“6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used

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sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”

Having heard learned counsel for the parties and after perusing the records of the case, it transpires that alleged recovery of 09 kg is non-commercial quantity and the petitioner is behind the bars since 20.09.2023 and trial of the case has not made much progress. The culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioner.

Keeping in view the law laid down by the Hon’ble Supreme Court of India in ‘Prabhakar Tewari Vs. State of U.P. and another’ 2020 (1) R.C.R. (Criminal 831) and ‘Maulana Mohd. Amir Rashadi Vs. State of U.P. and Another’, 2012 (2) SCC 382, the involvement of the petitioner in other cases would not be a ground to refuse grant of concession of regular bail.

In view the above, the present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioner-Karan Jeet Singh @ Karanjeet @ Sonu 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

30.11.2023

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