

**224 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**Neutral Citation No. 2023:PHHC:159841
CRM-M-61504-2023**

Date of Decision: December 13, 2023

Jogi Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Vivek Singla, Advocate for the petitioner.

DEEPAK GUPTA, J.(Oral)

1. This is the second petition filed under Section 439 Cr.P.C. for grant of regular bail in case FIR No.0116 dated 25.11.2022, under Section 15, 25 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred as 'the NDPS Act'), (offence under Section 29 of NDPS Act added later on vide rapat No.24 dated 29.11.2022) registered at Police Station Tapa Mandi, District Barnala. The earlier petition bearing CRM-M No.34576 of 2023 was dismissed as withdrawn vide order dated 25.07.2023, copy of which has been placed on record.

2. Allegations are that 56 Kgs of 'Poppy Husk' was recovered from Swift car on 25.11.2022, which was being driven by co-accused Jaspal Singh, whereas petitioner Jogi Singh was on conductor seat. It is contended by learned counsel for the petitioner that the petitioner has been falsely implicated in this case; that the petitioner is in custody for the last 1 year; that after investigation of the case, challan has been presented and the trial may take a

long time to conclude.

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3. Notice of motion.

4. Mr. R.S. Khaira, DAG, Punjab accepts notice on behalf of the respondent-State. He submits that after conclusion of the investigation, challan has already been filed and charges have also been framed. Learned State counsel also submits that out of 15 witnesses, 4 PWs have been given up and 1 PW has been partly examined.

5. As per custody certificate placed on record by learned State counsel, petitioner is in custody for the last 1 years and 11 days with no criminal antecedents. However, bail petition is opposed on the ground that recovered contraband falls under the commercial category.

6. In the aforesaid circumstances, the rigor of Section 37 of the NDPS Act is required to be balanced with Article 21 of the Constitution of India providing for the fundamental right of the life and liberty, of which the right of speedy trial forms a part.

7. Considering the fact that the recovered contraband was marginally above than the commercial quantity; the fact that petitioner has no criminal antecedent; the fact that he is in custody for more than 1 year and the trial may take a long time to conclude, but without commenting anything on the merits of the case, the petitioner is admitted to bail. He is ordered to be released on bail on his furnishing requisite bail bonds and surety bonds to the satisfaction of learned Trial Court/Duty Magistrate concerned.

8. Allowed.

December 13, 2023

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(DEEPAK GUPTA)
JUDGE

Whether reasoned/speaking: Yes/No

Whether reportable: Yes/No