

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-62677-2023
DECIDED ON: 19.12.2023

AVTAR SINGH ALIAS TARI

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sunny K. Singla, Advocate
for the petitioner.

Mr. Rajiv Verma, DAG Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court under Section 439 Cr.P.C., has been invoked for the grant of regular bail to the petitioner in case FIR No. 197, dated 16.11.2021, under Sections 15 and 29 of NDPS Act and Sections 192 and 207 of Motor Vehicles Act, 2019 registered at Police Station Special Task Force, Phase-4, District SAS Nagar.
2. Learned counsel for the petitioner has contended that the prosecution has failed to connect the petitioner by way of any cogent evidence as to how he is involved in the present case where a recovery of a huge quantity of poppy husk was effected from a truck bearing registration No. HR-65-9507 whereas nothing has been recovered from the car bearing registration No. HR-41-J-2324 which was being driven by the co-accused Manpreet Singh. The assertion is that neither the warrants/authorization was obtained nor any “grounds of belief” were recorded as to why warrants/authorization could not be obtained prior to conducting the raid to

conduct the search of the truck and the car after sunset, which is clear violation of Section 50 of NDPS Act.

3. Learned State counsel has opposed the prayer made in the present petition on the ground that the said vehicle was being used in the commissioning of the said drug transaction, having no registration number whatsoever and for that reason Motor Vehicle Act has also been pressed into in the instant petition, therefore, there is direct connection between the petitioner and Chamkaur Singh, and the truck was being escorted by the co-accused Manpreet Singh wherein there was a huge quantity of poppy husk. He also submits that the regular bail petition filed by co-accused Manpreet Singh vide CRM-M-14765-2023 has already been dismissed by this Court vide order dated 18.03.2023.

4. In view of the afore-said facts and circumstances and the fact that the custody of the petitioner is just 2 years and 26 days apart from the fact that huge quantity of poppy husk i.e., 1600 kg has been recovered from the truck, which cannot be deemed to have been planted falsely to implicate the petitioner and also keeping in view of the fact that the regular bail petition of co-accused namely Manpreet Singh stands dismissed by this Court on 18.03.2023 in CRM-M-14765-2023, no ground for granting the concession of regular bail is made out. As far as the contention of learned counsel for the petitioner with regard to non-compliance of Section 50 of NDPS Act is concerned, it cannot be taken into account while considering the case for regular bail which is matter of trial to be adjudicated upon and may be a handle for seeking acquittal in case there is any loophole in the prosecution story but before this Court at this stage the fact remains that 1600 Kgs of poppy husk was recovered from the truck, which is of commercial in nature. In view of above the petitioner does not deserve the concession of regular bail, as such the present petition stands dismissed being devoid of any merit.

5. However, it is made clear that anything stated hereinabove, shall not be construed as an expression of opinion on the merits of the case.

19.12.2023

(SANDEEP MOUDGIL)
JUDGE

Meenu

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>