

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-332-2024

Reserved on: February 26, 2024

Date of Decision: February 27, 2024

Dharminder Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Krishan Kumar Dadwal, Advocate for the petitioner.

Mr. Sahil R. Bakshi, AAG, Punjab.

DEEPAK GUPTA, J.

By way of this petition filed under Section 439 Cr.P.C., petitioner prays for his release on regular bail in a case arising out of FIR No.13 dated 08.05.2023 registered at Police Station Nangal Bhoor, District Pathankot, under Sections 15 of the Narcotics Drugs and Psychotropic Substances Act (Act N: 61 of 1985) [for short 'the NDPS Act'].

2. As per prosecution allegations, secret information was received by the police on 08.05.2023 at Talwara Jattan to the effect that car bearing Registration No. PB-11-BR-9443, make Verna, and truck bearing Registration No. PB-12-M-7631, make TATA, were coming from Jammu side and that these vehicles were carrying intoxicating substance and if barricading is done, recovery of intoxicating material could be effected. Finding the secret information to be reliable, compliance of

Section 42 of the NDPS Act was made. Barricading was done. After some time, Verna car bearing Registration No. PB-11-BR-9443 was found coming, which was found to be driven by one Satinder Singh. The person sitting on the side of the driver disclosed his name as Rakesh Kumar, whereas person sitting on the rear seat disclosed his name as Tejwinder Singh. In the meantime, truck bearing Registration No. PB-12-M-7631, make TATA, was also found coming from the side of Pathankot. It was got stopped. Driver of the truck disclosed his name as Gurbaj Singh and the person, sitting on the conductor seat, disclosed his name as Dharminder Singh (*petitioner herein*). After making compliance of Section 50 of the NDPS Act, search was conducted. 5 Kg of dried crushed poppy seeds were recovered from the boot of the car; whereas 10 plastic bags containing dried crushed poppy seeds were recovered from the body of the truck, total weighing 202 Kg. Thus, 207 Kg of dried crushed poppy seeds was recovered from the two vehicles.

3. It is contended by learned counsel that petitioner has been falsely implicated; that as per the own case of the prosecution, petitioner was sitting on the conductor side of the truck, from which alleged recovery was effected; that petitioner has nothing to do with the recovery, as he was not even aware about the contraband lying in the truck; that petitioner has no concern with Gurbaj Singh, driver of the truck. Leaned counsel has also drawn attention towards the fact that joint disclosure statement of all the accused including the petitioner was recorded by the police, which was extracted during custody. Learned counsel has also

drawn attention towards the fact that 03 co-accused, namely Tejwinder Singh, Satinder Singh and Rakesh Kumar have already been allowed bail by this Court vide order dated 30.11.2023 (*Annexure P-6*) passed in CRM-M-34938-2023 and CRM-M-35311-2023 respectively. Learned counsel further contends that case of the petitioner is on parity; that the challan has already been filed; that the trial may take long time to conclude; that petitioner is in custody for the last more than 09 months with no other criminal case pending against him and so, in these circumstances, he be allowed bail.

4. Learned State counsel has strongly opposed the petition by pointing out that 207 Kg. of crushed poppy seeds has been recovered from the petitioner and others lying in the two vehicles, out of which 202 Kg. of crushed poppy seeds was recovered from the truck, in which the petitioner was one of the occupants. Learned State counsel further submits that petitioner can not claim parity with co-accused, namely, Tejwinder Singh, Satinder Singh and Rakesh Kumar, as all three of them were occupants of the car. Learned State counsel also submits that the commercial category of poppy seeds starts from 50 Kg. and thus, recovered quantity of contraband is more than 04 times of the commercial category. Prayer is made for dismissal of the petition.

5. I have considered submissions of both the sides and have also appraised the record carefully.

6. Petitioner was one of the occupants of the truck, from which

202 Kg. of crushed poppy seeds was recovered, which is far more than the commercial category being 04 times thereof. No doubt that co-accused Tejwinder Singh, Satinder Singh and Rakesh Kumar have already been allowed bail by this Court vide order dated 30.11.2023 (Annexure P-6), but while granting bail to them, it was noticed by this Court that all the three of them were occupants of the car. It was further noticed that except for the joint disclosure statement of all the 05 accused, i.e. 03 occupants of the car and two occupants of the truck, there was no other evidence collected during investigation, so as to show any connection between the occupants of the car and the occupants of the truck. It was keeping in view these circumstance that 03 occupants of the car were allowed bail. Petitioner cannot claim parity with the occupants of the car.

7. Custody certificate would reveal that petitioner is in custody for the last 09 months and 16 days, though he has no other criminal case pending against him. However, having regard to the heavy quantity of contraband as recovered from the petitioner, but without commenting anything further on the merits of the case, this Court does not find it a fit case for granting benefit of regular bail to the petitioner.

Dismissed.

February 27, 2024

sarita

(DEEPAK GUPTA)
JUDGE

Whether reasoned/speaking: Yes/No

Whether reportable: Yes/No