

218 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-1007-2024 (O&M)
Date of Decision: 15.01.2024

GURMEET SINGH

...Petitioner

V/S

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Prabhjot Singh, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG Punjab.

HARPREET SINGH BRAR J. (Oral)

1. This is the first petition under Section 439 of Cr.P.C. seeking grant of regular bail to the petitioner in the case bearing FIR No. 0034 dated 16.04.2023 registered under Section 15 of Narcotic Drugs and Psychotropic Substances Act 1985 at Police Station Sadar Rajpura, District Patiala (Punjab).

2. The present FIR was lodged on the allegations that on 16.4.2023, SI Gurmeet Singh, on receiving intimation from ASI Roshan Kumar reached at main road, opposite Jashan Hotel, Village Uppalheri, where, ASI Roshan Kumar has already stopped accused/petitioner Gurmeet Singh and co-accused Maan Singh, who came there in truck bearing No. NL02-L-0683. Thereafter, on checking of truck, from the seats of said truck, two plastic bags containing 27 Kg each of Poppy Husk i.e total 54 KG of Poppy Husk were recovered, which were taken into police possession. The accused/petitioner was arrested on 16.4.2023 and since then petitioner is in custody. The said recovery of 54 KG of Poppy Husk falls within the ambit of commercial quantity.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner is behind the bars since 16.04.2023 and the contraband, which is alleged to have been recovered from the petitioner is 54 KG of Poppy Husk, which is marginally higher than the commercial quantity i.e. 50 KG and it also includes the weight of two plastic bags. Trial of the case is progressing at snail's pace. Learned counsel further relies upon judgment passed by this Court in CRM-M-57485-2022 decided on 10.01.2023 titled as ***Ranjit Singh @ Ranjit Kumar Vs. State of Punjab*** and CRM-M-21460-2022 decided on 08.02.2023 titled as ***Jagtar Singh Vs. State of Punjab***.

4. Per contra, learned State counsel opposes the prayer for grant of regular bail to the petitioner on the ground that the alleged contraband recovered from the conscious possession of the petitioner, falls within the ambit of commercial quantity, as such, in view of the embargo created by Section 37 of the NDPS Act, the petitioner is not entitled to the concession of regular bail. It is further submitted that the petitioner is also involved in one more case under the NDPS Act. However, learned State counsel on instructions from ASI Subhash Chand submits that the petitioner, in the other case, under NDPS Act is on bail and the recovery from the petitioner, in that case is less than the commercial quantity.

5. Having heard learned counsel for the parties and after perusing the records of the case, it transpires that the petitioner is behind the bars since 16.04.2023 and the contraband alleged to have been recovered from the petitioner is marginally higher than the commercial quantity. The trial of the case has not commenced as none out of 13 PWs, have been examined so far. So further incarceration of the petitioner without

there being the prospect of the conclusion of the trial in the near future, would be violative of Article 21 of the Constitution of India. Culpability, if any, would be determined at the time of trial.

6. In view of the ratio of law laid down by Hon'ble Supreme Court in *Prabhakar Tiwari Vs. State of UP and Anr.* 2020(1) RCR (Criminal) 831 and *Maulana Mohd. Amir Rashadi Vs. State of U.P. and Others* 2012(2) SCC 382, the involvement of accused in other criminal cases cannot be the sole ground to deny him the concession of bail.

7. In view of the above, the present petition is allowed and petitioner- Gurmeet Singh is ordered to released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

8. 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.

15.01.2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No