



203

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-2575-2024 (O&M)
Date of decision: 28.08.2024

RAJ SINGH @ RAJU

...Petitioner

VERSUS

STATE OF PUNJAB

...Respondent

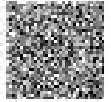
CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Gurpal Singh Sandhu, Advocate
for the petitioner.

Mr. Rajiv Verma, DAG, Punjab.

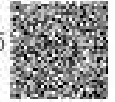
JASGURPREET SINGH PURI, J. (Oral)

1. The present is a second petition filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.115 dated 07.08.2022, under Sections 15 and 29 of the NDPS Act (Section 25 of the NDPS Act added later on), registered at Police Station Sadar Jalalabad, District Fazilka, Punjab.
2. Learned counsel for the petitioner submitted that the petitioner is in custody for 2 years and 18 days and as per the allegations contained in the FIR, which was lodged against three persons including the petitioner, the police had intercepted a truck from where there was an alleged recovery of 125 kgs. of *poppy husk*. He further submitted that the other co-accused, namely, Chhinder Singh and Jaswinder Singh @ Jassa have already been extended the benefit of regular bail by a Coordinate Bench of this Court and this Court vide Annexure



P-1 and Annexure P-2, respectively. He further submitted that the petitioner allegedly was the driver of the truck from where the aforesaid recovery of *poppy husk* was made. He further submitted that the petitioner has been falsely implicated in the present case and he has clean antecedents and is not involved in any other case and considering the aforesaid custody of the petitioner and the fact that the aforesaid two co-accused have already been extended the benefit of regular bail by a Coordinate Bench of this Court and this Court vide Annexure P-1 and Annexure P-2, respectively, he may also be considered for the grant of regular bail.

3. Learned counsel for the petitioner also submitted that even otherwise also charges in the present case were framed by the learned trial Court on 16.09.2023, which is more than 11 months ago but the trial of the case is not progressing and only one prosecution witness, namely, ASI Amrinder Singh has been examined, who was only a formal witness and not even a recovery witness or a part of the police party who had allegedly intercepted the truck. He further submitted that considering the aforesaid delay in the trial as well, the petitioner is entitled for the grant of regular bail and in this regard, he has referred to judgments of Hon'ble Supreme Court in *Satender Kumar Antil versus Central Bureau of Investigation and another, [2022 (10) SCC 51], Mohd. Muslim @ Hussain versus State (NCT of Delhi), 2023 AIR (SC) 1648, Dheeraj Kumar Shukla versus The State of Uttar Pradesh, 2023 SCC Online SC 918, Rabi Prakash versus The State of Odisha, Special Leave to Appeal (Criminal) No.4169 of 2023* and a latest judgment of Hon'ble Supreme Court in *Ankur Chaudhary versus State of Madhya Pradesh, SLP (Crl.) No.4648/2024.*

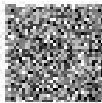


4. On the other hand, Mr. Rajiv Verma, DAG, Punjab submitted that it is correct that the petitioner is in custody for 2 years and 18 days and it is also correct that the aforesaid two co-accused have already been extended the benefit of regular bail by a Coordinate Bench of this Court and this Court vide Annexure P-1 and Annexure P-2, respectively. He further submitted that it is also correct that the petitioner has clean antecedents and he is not involved in any other case. He has however opposed the grant of regular bail to the petitioner on the ground that the petitioner was the driver of the truck from where the aforesaid alleged recovery was made, which falls in the category of commercial quantity.

5. I have heard the learned counsels for the parties.

6. The petitioner is in custody for 2 years and 18 days. It is not in dispute that the aforesaid two co-accused, who were also allegedly in the aforesaid truck from where the recovery was effected being the owner and passenger have already been extended the benefit of regular bail vide Annexure P-1 and Annexure P-2. It is also not in dispute that the petitioner has clean antecedents and he is not involved in any other case. The stage of the trial of the case would be an important factor for the purpose of considering the grant of regular bail to the petitioner. The custody of the petitioner has come out to be 2 years and 18 days and charges in the present case were framed by the learned trial Court on 16.09.2023, which is more than 11 months ago but no material witness has been examined till date and only one formal witness as aforesaid according to the learned counsels for the parties has been examined.

7. Therefore, this Court is of the considered view that the bar contained under Section 37 of the NDPS Act will not apply to the present



petitioner in light of Article 21 of the Constitution of India and also in light of the aforesaid judgments of Hon’ble Supreme Court as relied upon by the learned counsel for the petitioner.

8. Therefore, considering the aforesaid totality and circumstances of the present case, this Court deems it fit and proper to grant regular bail to the petitioner.

9. Consequently, the present petition is allowed. The petitioner shall be released on regular bail, if not required in any other case, subject to furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

10. However, anything observed hereinabove shall not be treated as an expression of opinion on the merits of the case and is meant for the purpose of deciding the present petition only.

28.08.2024
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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