

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CRM-M No. 3212 of 2024 (O&M)
Date of Decision: 01.05.2024**

Parkash Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Arshdeep Singh Brar, Advocate,
for the petitioner.

Mr. Rahul Jindal, Assistant Advocate General, Punjab

HARKESH MANUJA, J. (ORAL)

The petitioner, by way of present petition filed under Section 439 Cr.P.C., seeks grant of regular bail pending trial in case bearing FIR No.227, dated 12.12.2022, under Section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Sadar Ludhiana, District Police Commissionerate Ludhiana, whereby the petitioner alongwith one Rumanpreet Singh has been implicated with the allegations of recovery of 5 kgs. of opium.

[2] Additional affidavit dated 01.05.2024 of Sh. Gur Iqbal Singh, (PPS), ACP, Ludhiana (South), filed on behalf of the respondent-State of Punjab, is taken on record. Copy thereof supplied to the opposite side.

[3] Learned State Counsel vehemently opposes the prayer made on behalf of the petitioner, while referring to the huge recovery involved in the present case, besides the custody period of the petitioner being only about one year and four months.

[4] I have heard learned counsel for the parties and gone through the paper-book. I find substance in the submissions made by learned counsel for the petitioner.

[5] In the present case, the investigation stands concluded with the filing of challan, followed by framing of charges and only two, out of total eleven prosecution witnesses, have been examined so far. The petitioner is behind the bars since 12.12.2022, i.e. for the past about one year and four months and the conclusion of trial may take some time. Also, the petitioner is not involved in the case of similar nature.

Equally important, learned counsel for the petitioner has also pointed out that the present is a case of false implication and there was no occasion for the investigating agency who obtained the signature of the son of petitioner on the Arrest Memo / Intimation Memo, which, as per the prosecution, were prepared at the spot. In this regard, a perusal of the reply dated 01.05.2024, filed on behalf of the respondent-State, shows that the factum of signatures of the son of petitioner on the Arrest Memo / Intimation Memo have been admitted by the respondent-State, which, at this stage, creates a doubt about the prosecution story. Relevant extract, i.e. para-3 (iv) from the reply dated 01.05.2024 is extracted hereunder:-

“ That thereupon separate Arrest Memo and Intimation Memo dated 12/12/2022 for the petitioner and other accused were prepared by the investigating officer. It is pertinent to mention that upon receiving information of his father’s arrest, Jorawar Singh, i.e. son of the petitioner Parkash Singh, arrived at the police station. Subsequently in the presence of the

SHO PS Sadar, Ludhiana and two other official witnesses, Jorawar Singh signed the Arrest Memo and the Intimation Memo pertaining to his father i.e. the petitioner. The said document is appended as Anenxure P-3 with the present petition.”

Besides above, even as per the prosecution story, the alleged recovery of 5 kgs. of opium was being carried in a transparent polythene bag and that too not being recovered from the conscious possession of the petitioner and co-accused, but as per the FIR, it was lying / fallen on the ground.

Considering the aforesaid facts, this Court does not find any justification to extend the incarceration of the petitioner any further.

[6] In view of the above, but without commenting upon merits of the present petition, the same is **allowed**. The petitioner is ordered to be released on bail subject to his furnishing adequate bail bonds / surety bonds to the satisfaction of the Trial Court/Illaq Magistrate/Duty Magistrate concerned.

[6] It is made clear that this order may not be construed as an expression of opinion on the merits of the case.

May 01, 2024
'dk kamra'

(HARKESH MANUJA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No