

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-7665-2024 (O&M)

Date of Decision: 28.02.2024

Iliyas Mew ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Manvinder Sidhu, Advocate, for the petitioner.

Mr. Ramender Singh Chauhan, AAG, Haryana.

FIR No.	Dated	Police Station	Section/s
0278	24.04.2022	P.S. Sadar Thanesar, District Kurukshetra	Section 15 of the NDPS Act (Sections 27-A and 29 of the NDPS Act as well as Section 201 IPC added later on)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks grant of regular bail in respect of aforementioned FIR.
2. The FIR was lodged on the basis of secret information received on 24.04.2022 to the effect that Prem Singh and Charanjeet Singh were coming in a “Canter” bearing registration No.PB-65-BB-2751 from Madhya Pradesh carrying poppy-husk so as to sell the same in Punjab and Himachal Pradesh. Pursuant to receipt of said information, barricading was held and the aforesaid “Canter” was intercepted and two persons sitting in the same were arrested, who disclosed their names as

Prem Singh and Charanjeet Singh and upon search of said “Canter”, 13 bags of poppy-husk containing a total 515 Kgs. of poppy-husk was recovered. It is further the case of prosecution that the aforesaid two accused upon interrogation disclosed that they had procured the aforesaid contraband from the petitioner at the instance of Jagtar Singh.

3. Learned counsel for the petitioner submitted that he is nowhere named in the FIR and has been falsely implicated solely on the basis of a disclosure statement, the admissibility and veracity of which would be debatable. It has further been submitted that co-accused Jagtar Kumar, who had also not been found at the spot and was named in the disclosure statement of Prem Singh and Charanjeet Singh, has already been granted anticipatory bail. Learned counsel has further submitted that this Court while accepting the contentions of the petitioner as regards injuries sustained by him in a vehicular accident had earlier granted interim bail to the petitioner vide order dated 17.02.2023 in CRM-M-4160-2023. It has, thus, been submitted that since challan already stands presented, his detention would not serve any useful purpose.
4. Opposing the petition, learned State counsel has submitted that since it is a case of recovery of commercial quantity of contraband, fetters imposed by Section 37 of the NDPS Act would also be attracted and under these circumstances, the petitioner cannot be released on bail. Learned State counsel has, however, informed that the petitioner is not involved in any other case.
5. This Court has considered rival submissions.

6. It is not in dispute that the petitioner is neither named in the FIR nor was ever found at the spot when recovery was effected from the “Canter”. He has, however, been nominated as an accused subsequently on the basis of disclosure statement of co-accused. The evidentiary value of such like statement would certainly be debatable. Investigation already stands concluded and challan has been presented. This Court also finds that the petitioner had earlier sustained injuries in a vehicular accident and as a matter of fact had also been granted interim bail by this Court on account of injuries sustained by him. Having regard to the totality of facts & circumstances of the case, this Court is of the opinion that it is a fit case for grant of bail to the petitioner. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

28.02.2024

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**(GURVINDER SINGH GILL)
JUDGE**

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