

Hira Bhardwaj were apprehended as they were found in possession of 100 KG of poppy husk.

Learned counsel for the petitioner *inter alia* contends that identically placed co-accused, namely, Geeta Verma, has been granted the concession of regular bail by this Court vide order dated 01.02.2024 passed in CRM-M-5672-2023 titled as 'Geeta Verma Vs. State of Punjab' (Annexure P-1). It is further contended that poppy husk was recovered from the place which is accessible to many persons and conscious possession of the petitioner is not proved, as the place from which the contraband was recovered, is not within the exclusive possession of the petitioner. He further contends that Balveer Singh's Vehra consists of 24 rooms which is occupied by many persons, whereas, the petitioner is residing only in one room and once the place of recovery is accessible to so many persons, there is no evidence available on record to prove the conscious possession of the petitioner. Moreover, the petitioner is not involved in any other case and is behind the bars since 20.10.2022.

Per contra, the learned State counsel opposes the prayer for grant of regular bail to the petitioner on the ground that 100 kg of poppy husk was recovered from the conscious possession of the petitioner, which falls within the ambit of commercial quantity and as such, the petitioner is not entitled to the concession of regular bail.

Having heard the learned counsel for the parties and after perusing the record of the case, it transpires that the place of recovery is an open space which is accessible to all. Whether the petitioner was in the exclusive possession of the said place, would be a moot point to be determined by the trial Court. The petitioner is behind the bars since 20.10.2022. The trial of the case

has not even commenced till date, out of 14 prosecution witnesses none has been examined so far. The petitioner is not involved in any other case. 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 the trial.

In view of the above, the present petition is allowed and the petitioner-Heera Bhardwaj @ Hira Bharadvavaj is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

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.

(HARPREET SINGH BRAR)
JUDGE

14.03.2024
Neha

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