

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

224

CRM M-13003 of 2024
Date of Decision: 20.03.2024

Yashpal Singh ...Petitioner
Versus
State of Haryana ... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Ms. Diksha, Advocate, for the petitioner.

Mr. Rajinder Kumar Banku, DAG, Haryana.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant a regular bail in case FIR No.573 dated 16.08.2023 registered under Section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, '**the NDPS Act**') (Sections 18B, 27A and 29-61-85 of the NDPS Act added later on) at Police Station Sadar Thanesar, District Kurukshetra.
2. As per the case of the prosecution, on 16.08.2023, a secret information was received by a police party that Yash Pal, who owns a canter, goes to Manipur after loading the goods from Haryana and while returning from Manipur, he buys opium at cheap prices and sells it to the customers in Haryana at higher prices. On finding the information reliable, a picket (*Naka*) was set up by the police on NH-44 and the canter driven by the petitioner was stopped. After following the process of law, the 20 Kgs and 800 grams of opium was

recovered from the cabin of the truck. The petitioner was formally arrested by the police on the same day.

3. Learned counsel for the petitioner contends that the petitioner has been falsely involved in the present case. She further contends that at about 07.00 a.m., on 16.08.2023, the petitioner was returning home in his canter and on the way, five persons in black Scorpio made an attempt to stop his truck by making gestures with their hands. Those persons asked the petitioner to change the tyre of their car, as it got punctured. However, the petitioner refused to oblige them by saying that he was an old man aged about 65 years. On this, those five persons threatened the petitioner with dire consequences. Thereafter, at about 7.40 a.m., the black Scorpio overtook the canter of the petitioner and the petitioner was forced to stop at gunpoint and was made to sit in the black Scorpio car by the police officials. Thereafter, the canter was driven by the police officials from 07.40 a.m. on 16.08.2023 and it was recorded in the CCTV cameras installed on the petrol pump on the highway. Learned counsel further contends that the petitioner had refused to change the tyre of the car of the police officials at 07.00 a.m. on 16.08.2023; consequently, the police officials were inimical towards him and he was falsely involved by the police officials. Learned counsel further submits that the petitioner had also approached this Court by way of filing of a petition, i.e., CRM M-3164 of 2024 titled as **“Yashpal Singh Vs. State of Haryana”** and prayed for investigation by some independent

Investigating Agency. However, the said matter is still pending before this Court. Learned counsel further contends that the petitioner was arrested on 16.08.2023 and is in custody since then. Thus, no purpose will be served by keeping the petitioner behind the bars.

3. On the other hand, on advance notice, learned State counsel has put in appearance and submitted that the petitioner is the main accused, who was arrested at the spot, while he was carrying 20 Kgs and 800 grams of opium. Learned State counsel further submits that the quantity of opium in the present case is “commercial” in nature and in view of the provisions contained under Section 37 of the NDPS Act, the petitioner is not entitled to the concession of bail.

4. I have heard the learned counsel for the parties and perused the record.

5. In the present case, the petitioner was caught by a police party and 20 Kgs and 800 grams of opium was recovered from the cabin of the truck. Further, it has been argued by the learned counsel for the petitioner that the petitioner had refused to change the tyre of the black Scorpio vehicle of the police officials and due to said enmity, the petitioner was falsely involved in the present case. However, in the considered opinion of the Court, it is unbelievable that a huge quantity of opium, i.e., 20 Kgs and 800 grams of opium was planted by the police officials simply due to the reason that the petitioner had refused to change the tyre of their car. In fact, the version mentioned by the complainant in the FIR is more probable

and inspires confidence. Apart from that, even in view of Section 37 of the NDPS Act, the petitioner is not entitled to bail and the petition deserves to be dismissed.

6. Dismissed.
7. The above observations have been made by this Court for the limited purpose of disposal of the bail application and the trial shall be decided by the trial Court on merits, after granting opportunity of hearing to both the sides, without getting influenced from the above observations.

20.03.2024

amit rana

(N.S.SHEKHAWAT)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No