



CRM-M-20797-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-20797-2024
Decided on : 25.09.2024

RAJU

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. H.S.Dhindsa, Advocate
for the petitioner(s).

Mr. Vinay Kumar, DAG, Punjab.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 439 of Cr.P.C. has been invoked for grant of regular bail to the petitioner in case FIR No.36 dated 08.03.2024, registered under Sections 15(c), 61 and 85 of NDPS Act, at Police Station Sadar Sri Muktsar Sahib, District Sri Muktsar Sahib.

2. The brief facts of the present case are that on 08.03.2024, during a routine patrol, the police apprehended the petitioner seated in a grey Tata Intra Pickup (Reg. No. PB04 AD 8160) on suspicion. Upon inspection, two plastic containers were found in the vehicle, containing 54 kilograms of poppy pods.

3. Learned counsel for the petitioner *inter alia* submits that the petitioner has been falsely implicated in this case. The petitioner has already undergone an actual custody of 06 months and 12 days and there is 01 other case registered against him, however, he is on bail. He has further placed reliance upon the



judgment passed by the Co-ordinate Bench vide order dated 15.01.2024 in CRM-M-1007-2024 (O&M) titled as ***Gurmeet Singh Vs. State of Punjab.***

4. Per contra, learned State counsel opposes the submissions made by the learned counsel for the petitioner on the ground that the alleged contraband recovered from the conscious possession of the petitioner, falls within the ambit of commercial quantity, as such, in view of the embargo created by Section 37 of the NDPS Act, the petitioner is not entitled to the concession of regular bail. Learned State counsel has filed the custody certificate dated 23.09.2024 in Court today, which is taken on record. As per the custody certificate, the petitioner has undergone actual custody of 06 months and 12 days and there is 01 other case of Excise Act is registered against the petitioner, however, he is on bail. He further on instructions from SI Harpreet Kaur, submits that the charges were framed on 12.09.2024 and out of 21 prosecution witnesses, none has been examined till date.

5. Heard the rival submissions made by learned counsel for the parties.

6. Admittedly, the recovery is of 54 kgs of poppy husk. The investigation of this case is complete and out of 21 prosecution witnesses, none has been examined till date. The petitioner has undergone actual custody of 06 months and 12 days and there is 01 other case of Excise Act is registered against the petitioner, however, he is on bail. The conclusion of the trial will take considerable time and further incarceration will not serve any purpose.

7. It would be unjust to keep him behind bars looking at the condition of the jails which are not conducive for rehabilitation process and detaining the accused persons in jails would also tantamounts to violation of Article 21 of the Constitution of India including the right to speedy trial, and is against the principle



“Dataram Singh vs. State of Uttar Pradesh and another, (2018) 3 SCC 22”.

8. Without commenting anything on the merits of the case, lest it may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate. The petitioner shall also abide by the following conditions:-

- (i) The petitioner will not tamper with the evidence during the trial.
- (ii) The petitioner will not pressurize/intimidate the prosecution witness(s).
- (iii) The petitioner will appear before the trial Court on the date fixed, unless personal presence is exempted.
- (iv) The petitioner shall not commit an offence similar to the offence of which he is accused of, or for commission of which he is suspected.
- (v) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

9. In case of breach of any of the above conditions, the prosecution shall be at liberty to move an application for cancellation of bail before this Court.

10. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

25.09.2024
Kavita

(KIRTI SINGH)
JUDGE

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