

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.****CRM-M-21943-2023****Date of Decision: 22.2.2024**

Dinesh Kumar

**....Petitioner****VERSUS**

State of Punjab

**....Respondent****CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present: Mr. G.S.Sandhu, Advocate, for the petitioner.  
Mr. Inderjeet Singh Ladher, DAG, Punjab.

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**KARAMJIT SINGH, J.**

Prayer in the present petition under Section 439 of Code of Criminal Procedure is for grant of regular bail to the petitioner in case FIR No.72 dated 26.7.2014 registered for the offences punishable under Sections 18 of NDPS Act at Police Station Khuhian Sarvar, District Fazilka.

2. The allegations in nutshell are that the police arrested the petitioner and recovered 2 KG of Opium from him on 26.7.2014. Thereafter, the petitioner was granted regular bail but subsequently, he jumped bail and was re-arrested on 17.8.2022 and since then, is in custody.

3. Counsel for the petitioner submits that the petitioner is falsely implicated in the present case which is relating to recovery of non-commercial quantity of Opium. It is further submitted that now the petitioner is in custody for the last about 1 year and 5 months and that the trial is not progressing ahead and that the petitioner is having no criminal history. So, prayer is made that the petitioner be released on bail.

4. Present petition is resisted by the State counsel who submits that earlier when the petitioner was granted bail, he absconded and that even now, there is apprehension that he will escape if released on bail. State

counsel further submits that in the present case, 2 Kg of Opium was recovered from possession of the petitioner and the trial is going on.

5. I have considered the submissions made by the counsel for the parties.

6. In the present case, rigors of Section 37 of NDPS Act are not applicable as non-commercial quantity of contraband was recovered from the petitioner.

7. No doubt, the petitioner was granted regular bail at the initial stage but thereafter, he jumped bail and was re-arrested on 17.8.2022 and presently, in custody for the last about 1 year and 5 months and at present, he is not facing any other criminal case as he has already served the sentence in a case registered under Section 229A IPC which was registered as earlier the petitioner absconded during trial. It will take considerable time for the trial to conclude as till date, prosecution is able to examine only 4 witnesses out of total 9 witnesses. In the given circumstances, no useful purpose is going to be served by keeping the petitioner in custody for any further period.

8. In view of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing heavy surety to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

( KARAMJIT SINGH )  
JUDGE

**February 22, 2024**

Paritosh Kumar

Whether speaking/reasoned  
Whether reportable

Yes/No  
Yes/No