

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

220

CRM-M-26126 of 2023 (O&M)
Date of Decision:19.03.2024

Channa Singh

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. G. S. Sandhu, Advocate,
for the petitioner.

Mr. Mohit Kapoor, Sr. DAG, Punjab

PANKAJ JAIN, J. (Oral)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.107 dated 23.12.2022, registered under Section 15, 18, 29 of the NDPS Act, at Police Station Khui Khera, District Fazilka.
2. Learned counsel for the petitioner submits that the petitioner was apprehended alongwith Nirmal Singh and both of them were found in possession of 40 kgs of Poppy Husk and 1 kg 500 grams of Opium. He submits that Nirmal Singh stands admitted regular bail vide order dated 24.07.2023 passed in CRM-M-15631 of 2023 observing as under:-

“1. The present petition has been filed by the petitioner under Section 439 of the Code of Criminal Procedure, 1973, for grant

of bail pending trial in case FIR No.107 dated 23.12.2022 registered under Sections 15, 18 and 29 of the NDPS Act, 1985, at Police Station Khui Khera, District Fazilka.

2. *It is submitted by the learned counsel for the petitioner that the case against the petitioner is totally false and concocted. The petitioner is not involved in the crime as alleged against him. Even as per the story of the prosecution, the allegation against the petitioner is possession of noncommercial quantity of the contraband. The petitioner is in custody since 26.12.2022 and that there is no other case against the petitioner. The petitioner is not required for any investigation purposes.*

3. *On the other hand, learned counsel for the State, being instructed by ASI Bhagwan Singh, has submitted that 40 Kgs. of poppy husk and 1.5 Kgs. of opium were recovered from the two persons. Therefore, the petitioner is directly involved in the crime. However, it is not disputed that the petitioner is in custody since 26.12.2022 and that there is no other case against the petitioner.*

4. *In view the above, but without expressing any further opinion on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial subject to his furnishing bail bonds/surety to the satisfaction of the Trial Court/Duty Magistrate, concerned.”*

2. Learned counsel for the petitioner claims parity. He further submits that the petitioner is in custody more than 1 year, 2 months and 21 days and the *challan* already stands presented and charges stand framed. He next submits that out of total 12 prosecution witnesses none of them has been examined till date.

3. Learned State counsel has opposed the contentions of learned

counsel for the petitioner by submitting that the petitioner is a habitual offender and three more cases under the NDPS Act have been registered against the petitioner.

4. Faced with the situation, learned counsel for the petitioner submits that non-commercial quantity of contraband is involved in all the three cases and the petitioner is on bail.

5. Custody Certificate of the petitioner has been filed today in Court. The same is taken on record.

6. State Counsel is not in position to dispute the factual assertions made by counsel for the petitioner based on record.

7. Without commenting on the merits of the case, keeping in view the incarceration suffered by the petitioner, parity with Nirmal Singh and the fact that the quantity involved is non-commercial, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

8. However, in addition to conditions that may be imposed by the Trial Court/Duty Magistrate concerned, the petitioner shall remain bound by the following conditions :-

(i) The petitioner shall not mis-use the liberty granted.

(ii) The petitioner shall not tamper with any evidence oral or documentary during the trial.

(iii) The petitioner shall not absent himself on any date before the trial.

- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any with the trial Court.
- (vi) The petitioner shall give his cellphone number to the police authorities and shall not change his cell-phone number without permission of the trial Court.
- (vii) The petitioner shall not in any manner try to delay the trial.

9. In case of breach of any of the aforesaid conditions and those which may be imposed by the Trial Court, the prosecution shall be at liberty to move cancellation of bail of the petitioner.

10. Pending applications, if any, also stand disposed of.

(PANKAN JAIN)
JUDGE

March 19, 2024
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Whether speaking : Yes
Whether reportable : No