



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1.

CRM-M-27603-2024

Dharmendra Joshi

.....Petitioner

versus

State of Haryana

..... Respondent
2.

CRM-M-8688-2024

Jasbir Singh

.....Petitioner

versus

State of Haryana

..... Respondent
3.

CRM-M-58933-2023

Jitender @ Jeetu

.....Petitioner

versus

State of Haryana

..... Respondent

Date of decision : 08.08.2024

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Ajay Pal Singh Gill, Advocate,
Mr. Gurlal Singh Dhillon, Advocate and
Mr. Ripudaman S. Brar, Advocate
for the petitioner in CRM-M-27603-2024.

Mr. Satveer Singh Bada, Advocate
for the petitioner in CRM-M-8688-2024.

Mr. Aditya Sanghi, Advocate and
Mr. Himanshu Garg, Advocate for the petitioner
in CRM-M-58933-2023.

Mr. Ramesh Kumar Ambavta, A.A.G., Haryana.

RAJESH BHARDWAJ, J. (Oral)



By way of this common order, I intend to dispose of abovesaid three petitions as they have arisen out of the same FIR.

Petitioners have approached this Court by way of present petitions praying for granting them regular bail in case FIR No.313 dated 05.09.2023, under Sections 15(c), 27(A) and 29 of NDPS Act, 1985, registered at Police Station Kalanwali, District Sirsa.

Adumbrated facts of the case are that the Police party while on patrolling spotted two cars lying parked towards Takhatmal side, one was TATA Ace and second was Sakoda Fabia. Four persons were sitting inside the Sakoda Fabia. Having some suspicion, the police party stopped their vehicle, however on seeing the police vehicle, one of the inmates of the car tried to escape but they were all apprehended by the police. On asking, they disclosed their names as Dharmender Joshi @ Mahadev (petitioner), Sewak Singh, Jasbir Singh (petitioner) and Madu Singh. They were given the notice for search under Section 50 of NDPS Act and on searching the car Skoda Fabia 03 white coloured plastic katta/bags were recovered from the dickey of the car. On searching the first and second plastic katta/bag, 22 Kgs of poppy husk in each bag was found, on searching the third plastic bag, 09 kgs of poppy husk was found. Thus, in all three bags, poppy husk was recovered from the car. All the four inmates failed to produce any licence for possession of these intoxicants and thus, the FIR was registered against them and all four were arrested by the Police at the spot. During investigation, the co-accused disclosed about the involvement of Jitender @ Jeetu (petitioner) and thus, he was also arrayed as an accused in the present FIR and arrested by the Police on 09.09.2023. Thereafter, the petitioners, Dharmender Joshi and Jasbir



Singh approached the Ld. Additional Sessions Judge, (Fast Track Special Court), Sirsa, for grant of bail, however, after hearing both the sides, the same were declined by the Learned Additional Sessions Judge, (Fast Track Special Court), Sirsa vide orders dated 15.12.2023 and 20.12.2023, respectively. The petitioner, namely, Jitender @ Jeetu also approached the Ld. Additional and District Sessions Judge-II, Sirsa, for grant of bail, however, his bail application was also declined by the Ld. Additional District and Sessions Judge-II, Sirsa, vide order dated 27.10.2023. Aggrieved by the same, the petitioners are before this Court by way of filing the present petitions.

It has been contended by counsel for the petitioner(s) that petitioners have been falsely implicated in the present case. They submit that as per case of the prosecution, recovery was effected from the petitioners at a public place, however, no independent witness was joined by the police party. He submits that there is violation of mandatory provision of Section 50 of the NDPS Act in effecting the recovery from the petitioners as the offer was not given in terms of the principle of the law settled. It is submitted that all the three bags were weighed along with the sack and thus, the total weight came to be 53 kgs of poppy husk. It is submitted that the total weight including the weight of the sack was 53 kgs and thus, it is doubtful whether the contraband recovered from the petitioners falls in the category of commercial quantity. He submits that Dharmender Joshi (petitioner) is involved in 02 other cases of NDPS Act, however, in those cases, he has been arrayed as an accused only on the basis of disclosure statements and he is already on bail in those cases whereas, petitioners, Jasbir Singh and Jitender @ Jeetu are not involved in



any other case. So far as petitioner, Jitender Singh @ Jeetu, is concerned he has been falsely implicated in the present case only on the disclosure statement made by the co-accused and thus, he was neither arrested from the spot nor any recovery was effected from him. He submits that the disclosure even otherwise is not an admissible evidence. It is submitted that once the weight of the contraband itself is disputed, it would be injustice to the petitioners to prosecute them for the recovery of a commercial quantity. It is submitted that the investigation in the present case is already complete and the charges have also been framed and thus, in the facts and circumstances of the present petitions, petitioners deserve to be granted regular bail.

Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner. He has submitted that except petitioner, namely, Jitender @ Jeetu, both petitioners were arrested from the spot along with contraband of commercial quantity. He has placed on record the custody certificates of all the petitioners on record which shows that petitioner, namely, Dharmender Joshi is involved in 02 other cases under the NDPS Act and thus, he is a habitual offender. So far as Jasbir Singh and Jitender @ Jeetu are concerned, he is not involved in any other case. He admits that petitioner, Jitender @ Jeetu was arrested only on the basis of disclosure statement of the co-accused. He submits that in all there are 14 prosecution witnesses and none has been examined so far.

Heard. On hearing counsel for the parties and perusing the record, it is apparent that petitioners are behind bars since September, 2023 and the contraband recovered from them is 53 kgs of poppy husk



which includes the weight of the sack. No independent witness was joined as is apparent from the case of the prosecution. This Court would refrain itself from commenting anything on the merits of the case. Investigation is complete and charges already framed and in all there are 14 prosecution witnesses but none has been examined so far.

The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. The trial of the case will take sufficiently long time. Thus, keeping in view the overall facts and circumstances of the case, this Court is of the opinion that learned counsel for the petitioners succeed in making out a case for grant of regular bail. Accordingly, interim bail granted to petitioner-Jitender @ Jeetu, vide order dated 06.03.2024 is made absolute and all three present petitions are allowed. Petitioners, namely, Dharmender Joshi, Jasbir Singh are ordered to be released on bail on their furnishing bail/surety bonds to the satisfaction of the concerned Trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

Photocopy of this order be placed on the file of other connected cases.

08.08.2024
ps-I

(RAJESH BHARDWAJ)
JUDGE

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