

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.**CRM-M-32499-2023****Date of Decision: 20.3.2023**

Sukhmanjit Singh

....Petitioner**VERSUS**

State of Punjab

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

Present: Mr. G.B.S.Dhillon, Advocate
for the petitioner.

Mr. Baljinder Singh, DAG, Punjab

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.78 dated 4.7.2022 registered for the offences punishable under Sections 18, 29 of NDPS Act at Police Station Kulgarhi, District Ferozepur.

2. The allegation in nutshell are that on 4.7.2022, the police officials received a secret information against the petitioner. Consequently, the petitioner was apprehended with 2.6 kg of Opium from the spot. The petitioner is in custody since 4.7.2022.

3. Counsel for the petitioner submits that the petitioner is falsely implicated in the present case and is in custody for the last more than 1 year and 8 months and is having no criminal antecedents. It is further submitted that the police presented the challan on completion of investigation but now the case is fixed for framing of charges and even thereafter, it will take time for the trial to conclude. So, prayer is made that the petitioner be released on regular bail.

4. Present petition is resisted by the State counsel who submits that commercial quantity of contraband was recovered from possession of the petitioner and that rigors of Section 37 of NDPS Act are applicable. It is further submitted that no ground is made out to release the petitioner on regular bail. However, State counsel has not disputed the fact that the petitioner is in custody for the last about 1 year and 8 months and is having no criminal antecedents and that the trial will commence only after framing of charges.

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

6. As per prosecution version, the police recovered 2.6 kg of Opium from the petitioner on 4.7.2022 and the said recovery comes under commercial quantity of contraband. As per custody certificate, the petitioner is in custody since 4.7.2022 and is not involved in any other criminal case. Admittedly, it will take time for the trial to conclude as till date charges are not framed. There is nothing on the record to establish that the petitioner is responsible for delay in trial. It being so, further incarceration of the petitioner would be violative of his right enshrined under Article 21 of the Constitution of India and the rigors of Section 37 NDPS Act can be diluted bearing in mind the right to a speedy trial.

7. In light of the above discussion, the present petition is hereby allowed and petitioner is directed to be released on regular bail subject to his furnishing of bail bonds and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

8. However, anything observed herein above shall not be treated as an expression of opinion on merits of the case. Further, petitioner is not

to indulge in any such illegal activity and respondent will be at liberty to seek cancellation of bail of the petitioner in the present case, if in future, petitioner commits another offence under NDPS Act.

(KARAMJIT SINGH)
JUDGE

March 20, 2023
Paritosh Kumar

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