



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

231

CRM-M-30892-2024
Date of decision: 14.08.2024

LAKHA SINGHPetitioner

Versus

STATE OF PUNJAB ...Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. P.S. Sekhon, Advocate
for the petitioner.

Mr. Sahil R. Bakshi, AAG, Punjab.

KULDEEP TIWARI. J.(Oral)

1. Through the instant petition, the petitioner craves for indulgence of this Court for his being enlarged on regular bail, in case FIR No.11 dated 12.02.2024, under Sections 18, 25 and 29 of the NDPS Act, 1985, registered at Police Station Barnala, District Barnala.

2. In the instant case two persons were apprehended on the spot, who were carrying 03 kilograms of opium, and they disclosed their names as Durga Lal and Ramesh Chand Suman. During investigation, Durga Lal suffered a disclosure statement to the effect that he along with co-accused Ramesh Chand Suman, has brought the recovered opium from one Gopal, resident of Garoth, District Mandsaur,



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Madhya Pradesh, and were on the way to supply it to the present petitioner-Lakha Singh. Thereafter, vide DDR No.019 dated 17.02.2024, present petitioner and co-accused Gopal, resident of Garoth, District Mandsaur, Madhya Pradesh, were nominated as accused in the present case, and an addition of Section 29 of the NDPS Act was also made in the instant FIR. The petitioner was arrested in this case on 10.04.2024, and after his arrest, no recovery has been effected from him.

3. The learned counsel for the petitioner, in his asking for the hereinabove extracted relief, has made the following submissions:-

(i) Petitioner has been falsely implicated in the present case;

(ii) Even if the case of the prosecution is treated to be as a gospel truth, no offence whatsoever, under Section 29 of the NDPS Act has been made out;

(iii) As per the case of the prosecution, petitioner would be the prospective buyer of the contraband, and to substantiate their allegation, there is no incriminating evidence with the prosecution agency;

(iv) Petitioner has suffered incarceration of approximately 04 months, as on today.

4. On the other hand learned State counsel has filed a short reply by way of affidavit dated 13.08.2024 of Sh. Satvir Singh, Deputy Superintendent of Police, Sub Division Barnala, on behalf of respondent-State. The learned State counsel has also placed on record the custody certificate *qua* petitioner, as issued by the Superintendent of District Jail Barnala. The same is taken on record. A perusal of the custody certificate reveals that the petitioner has suffered incarceration of 03



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months and 29 days, as on today. Learned State counsel on instructions, imparted to him by the official respondent, submits that after conclusion of the investigation, the final report under Section 173 Cr.P.C., had already been filed on 16.07.2024, and the charges were framed on 03.08.2024.

5. This Court has examined the instant petition and is of the considered opinion that the instant petition is amenable for being allowed.

6. The reason for forming the above inference emanates from the factum that:- (i) There is no allegation against the present petitioner that he is involved in selling or transporting the recovered contraband in the instant FIR; (ii) The petitioner has suffered incarceration of 03 months and 29 days, as on today; (iii) The issue whether the petitioner can be tried under Section 29 of the NDPS Act, is a moot question of law, which is to be adjudicated by the learned trial Court concerned; (iv) No fruitful purpose would be served by keeping the petitioner behind the bars, (v) Trial is not likely to conclude anytime soon.

7. Considering the hereinabove made discussion, this Court deems it fit and appropriate to grant the concession of regular bail to the petitioner. Therefore, without commenting upon the merits and circumstances of the present case, the present petition is **allowed**. The petitioner is ordered to be released on bail on furnishing of bail bond and surety bond to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

8. However, anything observed here-in-above shall have no effect on the merits of the trial, and is only meant for deciding the present petition.

9. All pending application(s) stand **disposed** of accordingly.

10. However, it is clarified that if in future, the petitioner is found

indulging in commission of similar offences, as are involved herein, the respondent-State shall be at liberty to make an appropriate application seeking cancellation of regular bail, as granted by this Court.

14.08.2024		(KULDEEP TIWARI)
amandeep		JUDGE
	Whether speaking/reasoned.	: Yes/No
	Whether Reportable.	: Yes/No