



CRM-M-34014-20241

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-34014-2024

Date of decision : September 17, 2024

Anwar Khan

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Satnam Singh Gill, Advocate, for the petitioner  
Mr. Sahil R. Bakshi, AAG, Punjab

KULDEEP TIWARI,J. (ORAL)

1. Short reply dated 16.9.2024, by way of affidavit of Sh. Jaspinder Singh, PPS, Deputy Superintendent of Police, Sub Division, Zirakpur, District SAS Nagar and custody certificate of the petitioner are filed today in Court by the learned State counsel, and the same are taken on record. Copies thereof, are supplied to the counsel opposite.
2. Through the instant petition filed under Section 483 BNSS, the petitioner prays for grant of regular bail in case FIR No. 184 dated 17.5.2024, under Sections 15 and 18 of the NDPS Act, 1985, registered at Police Station Zirakpur, District SAS Nagar, Mohali.
3. The case has been registered on the basis of secret information, and thereupon, 30 kgs poppy husk, 15 kgs poppy pod/flower, 1.5 kgs.



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opium, and Rs 12 lacs drug money, were recovered from the petitioner.

The relevant extract of the FIR reads as under:-

*“On 17.05.2024, when police party comprising of SI Sukhwinder Singh along with ASI Sandeep Singh, C-II Harpal Singh, C-II Mohan Lal, C. Amanpreet Singh and LCT Beantjit Kaur on government vehicle no. PB65-AH-6944 driven by C-II Jhujar Singh were present near Government High School, Village Chatt, Zirakpur, District SAS Nagar, Mohali in connection with checking of bad elements and drug peddlers, it was about 05:00 PM, a secret information was received by SI Sukhwinder Singh to the effect that accused-petitioner Anwar Khan, aged about 35 years son of late Akbar Khan, resident of Village Chatt, Zirakpur is habitual of selling opium and poppy husk. Since, the information was reliable, ruqa was sent to the police station for registration of case. Acting on the aforesaid information, present petitioner was intercepted from Swift car bearing registration no.PB-65-AP-7772 and he was found in conscious possession of 30 Kg poppy husk, 15 Kg poppy flower and 1.5 kg opium along with Rs.12 Lacs cash, which were recovered from the car and regarding which he could not produce any permit or license.”*

4. In asking for the relief of regular bail, learned counsel for the petitioner submits that the recovery effected in the instant FIR, falls within the ambit of non-commercial quantity, whereas, the learned trial court concerned, while observing that the recovered contraband falls within the



ambit of commercial quantity, declined the relief of regular bail.

5. This Court vide order dated 23.7.2024 has specifically directed the State to file a reply to the instant petition, disclosing therein how 15 kgs of poppy flower falls within the ambit of commercial quantity.

6. Today, reply has been filed. As per the reply, the following recovery was effected:-

| <i>Sr. No.</i> | <i>Accused</i> | <i>Recovery</i>                                  | <i>Commercial or Non-commercial</i> |
|----------------|----------------|--------------------------------------------------|-------------------------------------|
| 1              | Anwar Khan     | 15 kg poppy pod/flower                           | Non-commercial                      |
| 2              | Anwar Khan     | 30 kg poppy husk                                 | Non-commercial                      |
| 3              | Anwar Khan     | 1.5 kg Opium                                     | Non-commercial                      |
| 4              | Anwar Khan     | Rs 12 Lacs Drug money                            | NA                                  |
| 5              | Anwar Khan     | Swift Car bearing registration No. PB-65-AP-7772 | NA                                  |

7. It is admitted in the reply that the recovery effected from the petitioner falls within the ambit of non-commercial quantity, therefore, the FIR was registered under Sections 15 and 18 of the NDPS Act.

8. The custody certificate reflects that the petitioner has suffered incarceration of 3 months and 27 days as on today. Though the petitioner has been convicted in one other case of the similar nature, however, in that case he has already been bailed out, way back on dated 7.8.2015. In the instant case the final report has been filed on dated 12.7.2024, and the charges were framed by the learned trial court concerned on dated 17.7.2024. Furthermore, the prosecution has cited a total number of 13 witnesses but none has been examined till date.



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9. In view of the quantity of recovered contraband which falls within the ambit of non-commercial quantity, the period of incarceration suffered by the petitioner, and the stage of the trial, this Court deems it appropriate to extend the benefit of regular bail to the petitioner. Therefore, the present petition is **allowed**.

10. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

11. However, it is clarified that if in future, the petitioner is found indulging in commission of similar offences, as is involved herein, the respondent-State shall be at liberty to make an appropriate application seeking cancellation of regular bail, as granted by this Court. Moreover, anything observed here-in-above shall have no effect on the merits of the trial and is meant for deciding the present petition only.

September 17, 2024  
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( KULDEEP TIWARI )  
JUDGE

Whether speaking/reasoned ? Yes/No  
Whether Reportable ? Yes/No