



217 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-41722-2023
Date of Decision:08.11.2024**

GURMAN SINGH
....Petitioner

VERSUS

STATE OF PUNJAB
....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. J.S. Thakur, Advocate for the petitioner.

 Mr. Ajaib Singh, Addl.AG, Punjab.

KARAMJIT SINGH, J.

Prayer in the present petition under Section 439 of Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.95 dated 26.04.2023 registered for the offences punishable under Section 18 of NDPS Act, 1985 (Section 29 of NDPS Act, 1985 added later on) at Police Station City Kapurthala, District Kapurthala.

2. The allegations in nutshell are that police recovered 3 Kg of opium from co-accused Balvir Chand @ Sabi on 26.04.2023. Thereafter the present petitioner was nominated as accused on the basis of disclosure statement suffered by Balvir Chand @ Sabi to the effect that he purchased the aforesaid opium through phone contact No. 99156-55269 which was that of the present petitioner. Subsequently, the petitioner was arrested on 21.05.2023, thereafter the petitioner remained



in custody for about 1 year and was released on interim bail vide order dated 15.05.2024.

3. Counsel for the petitioner *inter alia* submits that petitioner who was not named in the FIR was later on nominated as accused on the basis of disclosure statement suffered by co-accused Balvir Chand @ Sabi and the veracity and relevance of the said disclosure statement is subject matter of trial. It is further submitted that no contraband was recovered in the present case at the instance of the petitioner. It is further submitted that petitioner has already suffered custody for a period of one year and that the trial is not progressing ahead and it will take time for the trial to conclude. It is further submitted that the petitioner has not misused the concession of interim bail in any manner. So, prayer is made that petitioner be released on regular bail.

4. Short reply by way of an affidavit of Deep Karan Singh, PPS, Deputy Superintendent of Police, Sub-Division, Kapurthala filed on behalf of the State is taken on record along with copy of judgment (Annexure R-1).

5. Present petition is resisted by the State Counsel, who on instructions from ASI Gursharan Singh submits that no doubt the petitioner was not named in the FIR which was registered against accused Balvir Chand @ Sabi but later on the petitioner was nominated as accused on the basis of disclosure statement suffered by said Balvir Chand @ Sabi from whom police recovered 3 Kg of Opium. However, the State counsel has not disputed the fact that after his arrest in the



present case, the petitioner remained in custody for about 1 year and during investigation, no contraband was recovered at the instance of the petitioner. However, the State counsel apprised the Court that the present petitioner is a previous convict.

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

7. Admittedly, the FIR in this case was registered against accused Balvir Chand @ Sabi from whom police recovered 3 Kg of opium. The name of the petitioner surfaced in the disclosure statement of co-accused Balvir Chand @ Sabi and the veracity and the relevance of said disclosure statement will be tested during trial. Apparently, no contraband was recovered in the present case at the instance of the petitioner who remained in custody for about 1 year and only thereafter released on interim bail by the Coordinate Bench of this Court. It will take time for the trial to conclude as till date prosecution is unable to examine any witness out of total 13 witnesses.

8. In view of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(KARAMJIT SINGH)
JUDGE

08.11.2024
Priyanka Thakur

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