

CRM-M-40221-2024

1

214
IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-40221-2024
Decided on : 23.08.2024

Pala Ram
... Petitioner

Versus

State of Haryana
... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present : Mr. Pratham Sethi, Advocate
for the petitioner

Mr. Anmol Malik, DAG Haryana

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under under Section 483 read with Section 528 of the Bharatiya Nyaya Sanhita, 2023 has been invoked for grant of regular bail to the petitioner in case FIR No.51 dated 17.02.2024 registered under Sections 15(c)/29 of the Narcotics Drugs and Psychotropic Substances Act, 1985 at Police Station Ellenabad, District Sirsa.

2. The facts in brief are that on 17.02.2024, the petitioner and his co-accused Jai Singh were arrested as they were found keeping in their conscious possession of 53 Kgs poppy husk without any permit or license in the area of Police Station Ellenabad.

3. Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case and he had accompanied the co-accused unknowingly, who was apprehended with 53 Kgs of poppy husk. He further

submits that the petitioner has clean antecedents and there is no other case



CRM-M-40221-2024

2

registered against him. Learned counsel submits that the alleged recovery of 53 Kgs of poppy husk is marginally higher than commercial quantity. The has already undergone an actual custody of 06 months and 04 days. He has further relied upon orders passed by this Court in CRM-M-13165-2023 titled as *Satgur Singh vs. State of Punjab*, decided on 20.04.2023 and CRM-M-1007-2024 titled as *Gurmeet Singh vs. State of Punjab*, decided on 15.01.2024

4. Per contra, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. As per the custody certificate, the petitioner has undergone actual custody of 06 months and 04 days. He further submits that the charges in the present case were framed on 29.07.2024 and out of 18 prosecution witnesses, none has been examined till date. He, however, submits that there are serious allegations against the petitioner, therefore, he is not entitled to the concession of regular bail.

5. Heard the rival submissions made by learned counsel for the parties.

6. In the cases of '*Sukhchain Singh @ Manga Versus State of Punjab*, CRM-M-7857-2022 decided on 04.04.2022, *Pardeep Singh versus State of Punjab*, CRM-M-46244-2022 decided on 19.01.2023, *Hari Yadav @ Haiya versus State of Punjab* (CRM-M-37645-2021)' decided on 11.11.2022, '*Jang Kanwar Versus State of Punjab* (CRM-M-53415-2021)' decided on 19.01.2022, '*Shankar Prashad Chanau Versus The State of Punjab*, CRM-M-24090-2020, decided on 27.08.2020, *Gurpreet Kumar Versus State of Punjab*, CRM-M-17021-2021, decided on 31.08.2021, *Salim Versus State of Haryana*, CRM-M-42436-2020, decided on 24.02.2021, *Gagandeep Versus State of Punjab*, CRM-M-3055-2021, decided on 27.01.2021, *Gurpreet Singh @ Gopi Versus State of Punjab*, CRM-M-41039-2019, decided on 26.02.2020, *Dalbara Singh Versus State of*



CRM-M-40221-2024

3

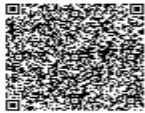
Punjab, CRM-M-47880-2022 decided on 16.01.2023', and *Vivek Watts versus State of Punjab*, CRM-M-13791-2022 decided on 15.02.2023, where the recovery from the accused was marginally above the commercial quantity for the respective contraband in each case, the Court granted bail to the accused therein.

7. In the present case, the alleged recovery from the petitioner is of 53 Kgs poppy husk, which is marginally higher than the commercial quantity. In this situation, the provisions of Section 37 of the NDPS Act can be relaxed to an extent and the case of the petitioner can be considered for the grant of bail, moreso, when he is in custody since 16.02.2024 and none of the prosecution witnesses have been examined so far.

8. The veracity of the allegations leveled against the petitioner shall be established during the course of the trial. The alleged recovery of 53 Kgs of poppy husk is marginally higher than the commercial quantity. Admittedly, charges have been framed on 29.07.2024 and out of 18 prosecution witnesses, none has been examined till date. The petitioner has undergone actual custody of 06 months and 04 days and he is not involved in any other criminal case.

9. Without commenting anything on the merits of the case, lest it may prejudice the trial, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate. The petitioner shall also abide by the following conditions:-

- (i) The petitioner will not tamper with the evidence during the trial.
- (ii) The petitioner will not pressurize/intimidate the prosecution witness(s).
- (iii) The petitioner will appear before the trial Court on the date fixed,



unless personal presence is exempted.

(iv) The petitioner shall not commit an offence similar to the offence of which he is accused of, or for commission of which he is suspected.

(v) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

10. In case of breach of any of the above conditions, the prosecution shall be at liberty to move an application for cancellation of bail before this Court.

11. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial Court would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

23.08.2024
reena

(KIRTI SINGH)
JUDGE

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