



CRM-M-43152-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-43152-2024
Decided on : 18.09.2024

Jaswinder @ Jagga
... Petitioner

Versus

State of Haryana
... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present : Mr. Mohit Shukla, Advocate
for the petitioner

Mr. Gaurav Bansal, DAG Haryana

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 has been invoked for grant of regular bail to the petitioner in case FIR No.235 dated 22.05.2011 registered under Sections 15, 61 and 85 of NDPS Act, 1985 at Police Station City Fatehabad, District Fatehabad, Haryana.

2. Learned counsel for the petitioner *inter alia* submits that the petitioner was seriously ill which ultimately led to loss of vision in both eyes and as per medical report now he has only 10% vision. He further submits recovery effected from the petitioner is 16 Kgs of poppy husk which does not fall under the ambit of commercial quantity.
3. On the last date of hearing, learned State counsel sought time to have instructions regarding the medical condition of the petitioner.
4. Today, Status report by way of an affidavit of Sh. Jaipal Singh, HPS,

Deputy Superintendent of Police, HQ, Fatehabad, District Fatehabad (Haryana) on



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behalf of respondent-State has been filed in the Court today. The same is taken on record. The relevant portion of the said status report is as under:-

“That as the Medical Officer, Central Jail-II, Hisar has advised that "patient's present condition of his vision can be enquired by the treating Ophthalmic Surgeon at MAMC Agroha", thereafter Investigating Officer also moved an application before MAMC Agroha on 10.09.2024 for medical examination present petitioner and on 10.09.2024, petitioner was produced before the board of doctors of MAMC Agroha and on examination, board has prepared his report which is enclosed herewith as Annexure R-2. As per board of doctor, "Visual disability 100% (hundred percent)". True copy of opinion given by Board of doctor of MAMC Agroha is annexed herewith as Annexure R-2 for the kind perusal of the Hon'ble High Court.”

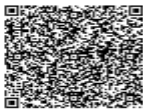
5. Learned State counsel submits that the petitioner has undergone actual custody of 04 months and 07 days. He further submits that trial is at advance stage and out of 08 prosecution witnesses, 07 prosecution witnesses have been examined.

6. Heard.

7. The veracity of the allegations leveled against the petitioner shall be established during the course of the trial. Admittedly, the trial is at its fag end as out of 08 prosecution witnesses, 07 prosecution witnesses have been examined till date. The petitioner has undergone actual custody of 04 months and 07 days. The petitioner is suffering from visual disability of 100% as per the doctor opinion.

8. Without commenting 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



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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/her from disclosing such facts to the Court or to any police officer or tamper with the evidence.

9. 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.

10. 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.

18.09.2024
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(KIRTI SINGH)
JUDGE

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