

2024:PHHC:118538



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

Sr. No.225

**CRM-M-43494-2024 (O&M)
Date of decision : 10.09.2024**

Jai Singh

..... Petitioner

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Aditya Sanghi, Advocate, for the petitioner.

Mr. Gaurav Bansal, DAG, Haryana.

KIRTI SINGH, J. (Oral)

The jurisdiction of this Court under Section 483 of the Bharatiya Nagarik Suraksha 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)/29/61 & 85 of the Narcotics Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') at Police Station Ellenabad, District Sirsa.

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

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 he has undergone an actual custody of 06 months and 21

2024:PHHC:118538



days and is not involved in other criminal case. Learned counsel submits that the alleged recovery of 53 Kgs. of poppy husk is marginally higher than the commercial quantity. He has further relied upon orders passed by a Coordinate Bench of 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. He further submits that the co-accused has been granted the concession of regular bail vide order dated 23.08.2024 (Annexure P5) passed by this Court in **CRM-M-40221-2024** titled as **Pala Ram Vs. State of Haryana.**

4. *Per contra*, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner. He contends that the offences of this kind are on the rise and commercial quantity of contraband has been recovered from the petitioner because of which Section 37 of the NDPS Act would be a bar to the grant of bail. He has filed custody certificate in Court today and the same is taken on record. As per the custody certificate, the petitioner has undergone an actual custody of 06 months and 21 days and is not involved in other criminal case. He further submits that the challan has been presented and the charges have been framed and out of 18 prosecution witnesses, none has been examined till date. The next date before the learned trial Court is 25.09.2024. 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.

2024:PHHC:118538



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 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 19.02.2024 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

2024:PHHC:118538



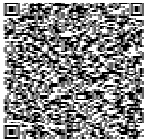
Kgs of poppy husk is marginally higher than the commercial quantity. Admittedly, charges have been framed out of 18 prosecution witnesses, none has been examined till date. The petitioner has undergone an actual custody of 06 months and 21 days and is not involved in any other criminal case. The co-accused has been granted the concession of regular bail vide order dated 23.08.2024 (Annexure P5).

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.

2024:PHHC:118538



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.

(KIRTI SINGH)
JUDGE

10.09.2024

Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No