

219 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-52176-2023
Date of Decision: 29.02.2024

Gurtej Singh ...Petitioner
vs.
State of Haryana ...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Kuldeep Singh Siwach, Advocate, for the petitioner.

Ms. Sheenu Sura, DAG, Haryana

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail in case FIR No.306 dated 20.10.2022 registered under Section 15 of NDPS Act (Sections 29, 31 of NDPS Act added later on), at Police Station Sadar Ratia, District Fatehabad.

2. As per case of the prosecution, co-accused Satnam Singh was arrested by the police, while he was carrying 4 kg and 700 grams of poppy husk. Learned counsel for the petitioner contends that the petitioner was not named in the FIR nor there is any averment, which connects the petitioner with the alleged crime. He further contends that the petitioner was not present at the spot nor any recovery of contraband has taken place from his conscious possession. Even, the quantity of contraband, which was allegedly recovered from Satnam Singh, co-accused, is non-commercial in nature and Satnam Singh has already been granted the concession of bail by this Court, vide order dated 14.03.2023 in CRM-M-57680-2022 (Annexure P-2). He further contends that the petitioner is in custody since 08.07.2023 and his further custody will not

serve any meaningful purpose. He further submits that the final report under Section 173 Cr.P.C. has already been presented against him.

3. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that three more cases under NDPS Act have been registered against the present petitioner and he does not deserve the concession of bail by this Court.

4. I have heard the learned counsel for the parties and perused the record.

5. The petitioner was arrested in the present case on 08.07.2023 and is in custody since then. The final report under Section 173 Cr.P.C. has already been presented against him. No doubt, the petitioner is facing the prosecution in three more cases, but the same cannot serve as a ground to reject the bail application of the petitioner, especially when the petitioner has been able to make out a case for grant of bail in the peculiar facts and circumstances of the present case.

6. Without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned, subject to the following conditions:-

- (i) *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 to disclose such facts to the Court or to any other authority.*
- (ii) *The petitioner shall remain present before the Court on the dates fixed for hearing of the case.*

- (iii) *The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.*
- (iv) *The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.*
- (v) *The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.*
- (vi) *In case, the petitioner involves in any other criminal activity, during the pendency of the trial, it shall be viewed seriously.*
- (vii) *The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bails bonds and surety bonds of the petitioner.*
- (viii) *The petitioner shall report every 1st Monday in English calander month before the concerned SHO till the conclusion of the trial and SHO shall mark his presence by making an entry in the rojnamcha. In case, he does not report on every 1st Monday before the concerned SHO, it shall be viewed seriously and the concession granted to him shall be liable to be cancelled and the State of Haryana shall be at liberty to move an appropriate application in this regard.*

29.02.2024.
hemlata

(N.S.SHEKHAWAT)
JUDGE

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