

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-53055-2023
Date of decision: 10.01.2024

Malkeet Singh @ Malkiat SinghPetitioner.

Versus

State of PunjabRespondent.

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Jaskirat Singh Dhaliwal, Advocate,
for the petitioner.

Mr. Harpreet Singh, Addl. AG, Punjab.
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SANJIV BERRY, J. (ORAL)

1. Instant petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR (Annexure P-1).

FIR No.	Dated	Sections	Police Station
163	07.09.2023	15(b) of NDPS Act	P.S. City Malout, District Sri Muktsar Sahib.

2. Custody certificate dated 08.01.2024 filed by learned State counsel in Court today is taken on record.

3. It is, *inter alia*, contended by learned counsel for the petitioner that the petitioner has been falsely implicated in this case and as per the case of the prosecution 10kg of *poppy husk* is alleged to have been recovered from him. He further contends that the petitioner is in judicial custody since 07.09.2023 and challan has already been presented in the Court. Hence, he prays for grant of regular bail.

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4. On the other hand, learned State counsel has opposed the bail application by arguing that the petitioner is already facing trial in another case, wherein *8kg* of *poppy husk* was recovered from his possession, although he is on bail in that case. He further submits that challan has been presented in the Court after investigation.

5. After hearing the arguments and perusing the record, it transpires that as per the case of the prosecution, recovery of *10kg* of *poppy husk* was effected from the possession of the petitioner which does not fall within the purview of commercial quantity; that the petitioner is in judicial custody since 07.09.2023; that after completion of investigation challan has been presented in the Court and out of 15 witnesses, cited by the prosecution, admittedly, none of the witnesses have been examined till date. Considering these aspects and the fact that conclusion of trial will take sufficient long time and no purpose would be served by detaining the petitioner further in custody as his criminal liability can only be determined after completion of the trial. In these circumstances, without commenting on the merits of the case, petition is allowed and the petitioner is ordered to be released on bail on his furnishing surety bonds/bail bonds to the satisfaction of trial Court.

6. The petitioner shall give the undertaking that he will not leave the country without prior permission of the Court; will regularly appear before the trial Court on each and every date; in case of some

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exigency, he will seek prior permission of the concerned Court qua his exemption to appear on the date fixed and he will not tamper with evidence of prosecution in any manner.

7. It is further made clear that in case the petitioner is found involved in any case under NDPS Act, after his release on bail, it will be open for the prosecution to move an application for cancellation of his bail in accordance with law.

8. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

9. Petition stands allowed.

10.01.2024
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(SANJIV BERRY)
JUDGE

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |