



212

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-53611-2023
Date of decision : 27.08.2024

Chanpreet Singh @ ChanPetitioner

versus

State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Gaurav Kalsi, Advocate
for the petitioner.

Mr. J.S. Arora, DAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

1. Petitioner has approached this Court by way of present petition praying for granting him regular bail in case FIR No.87 dated 25.07.2023, under Sections 15, 61 of NDPS Act, registered at Police Station Sujanpur, District Pathankot.
2. As per facts of the case, the police party received a secret information to the effect that Chanpreet Singh @ Chan (petitioner) and one Anmol Deep Singh were involved in selling the poppy seeds and they were coming in the truck. It was informed that if a naqa was laid and they could be arrested along with the contraband. On finding the information reliable, the information was sent by the police and naqa was laid. Thereafter, the Truck bearing No.PB 22 D 9799 was coming and the same was stopped. The driver of the truck, on asking, disclosed his name as Chanpreet Singh @ Chan whereas, the conductor disclosed his name as



Anmoldeep Singh. On search of the truck, 02 bags of poppy husk weighing 27 kg and 26 kg i.e. total 53 kg of poppy husk was recovered. They failed to produce any license regarding possession of the same and thus, they were arrested on the spot. The investigation commenced and the samples of the contraband were sent to the FSL. Petitioner approached the Court of learned Judge, Special Court, Pathankot praying for grant of regular bail. However, after hearing counsel for the parties, learned Judge, declined the same vide order dated 03.10.2023. Hence being aggrieved, petitioner is before this Court praying for grant of regular bail.

3. Learned counsel for the petitioner has submitted that petitioner has been falsely implicated in this case. He has further submitted that case of the prosecution is based on secret information however, there is a violation of the mandatory provisions of Section 42 of the NDPS Act. He further submits that the alleged recovery of two plastic bags were recovered from the cabin of truck and thus, there is violation of Section 50 of the NDPS Act. It is submitted that the recovery has been made in the public place however, no independent witness has been joined and thus, the false implication of the petitioner is writ large. He submits that petitioner is behind bars from the date of his arrest and he has no criminal antecedents as he was never involved in any case of similar nature. He further submits that even otherwise, the alleged recovery of 53 kgs of poppy husk is marginally above the non-commercial quantity. He submits that investigation is complete and the trial Court has commenced with the recording of prosecution evidence and thus, in the facts and circumstances of the case, petitioner deserves to be granted bail.



4. Learned State counsel has opposed the submissions made by counsel for the petitioner. He submits that due compliance of Section 42 and 50 of the NDPS Act was made and on search of the truck, which was being driven by the petitioner, 53 kgs of poppy husk was recovered from the same. He submits that as per the custody certificate, petitioner is not involved in any other case. He has submitted that out of 15 prosecution witnesses, 02 witnesses have already been examined. He further submitted that the petitioner is not entitled to be released on bail.

5. Heard. On hearing counsel for the parties and perusing the record, it is apparent that petitioner was arrested on 25.07.2023 on the basis of secret information and two bags of poppy husk were recovered from the Truck being driven by the petitioner. The recovered quantity was 53 kg of poppy husk. As per the custody certificate, petitioner is not involved in any other case of the similar nature or any other case under the IPC etc. The investigation is complete and out of 15 prosecution witnesses, 02 witnesses have already been examined.

6. As held by the Hon'ble Supreme Court in **Mohd Muslim @ Hussain Vs. State (NCT of Delhi), 2023 LiveLaw(SC)260**, this Court is of the opinion that the case of the petitioner is covered by the ratio laid down by the Hon'ble Supreme Court. In the abovesaid case Hon'ble Supreme Court expressed its views as under:-

19. A plain and literal interpretation of the conditions under Section 37 (i.e., that Court should be satisfied that the accused is not guilty and would not commit any offence) would effectively exclude grant of bail altogether, resulting in punitive detention and unsanctioned preventive detention as well. Therefore, the only manner in which such special conditions as enacted under Section 37 can be considered within



constitutional parameters is where the court is reasonably satisfied on a prima facie look at the material on record (whenever the bail application is made) that the accused is not guilty. Any other interpretation, would result in complete denial of the bail to a person accused of offences such as those enacted under Section 37 of the NDPS Act.

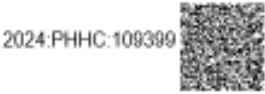
20 xxxxx

21it would be important to reflect that laws which impose stringent conditions for grant of bail, may be necessary in public interest; yet, if trials are not concluded in time, the injustice wrecked on the individual is immeasurable.

22 xxxxx

23. *There is a further danger of the prisoner turning to crime, “as crime not only turns admirable, but the more professional the crime, more honour is paid to the criminal”²² (also see Donald Clemmer’s ‘The Prison Community’ published in 1940²³). Incarceration has further deleterious effects - where the accused belongs to the weakest economic strata: immediate loss of livelihood, and in several cases, scattering of families as well as loss of family bonds and alienation from society. The courts therefore, have to be sensitive to these aspects (because in the event of an acquittal, the loss to the accused is irreparable), and ensure that trials – especially in cases, where special laws enact stringent provisions, are taken up and concluded speedily.'*

7. The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. This Court would refrain itself from commenting anything on the merits of the case. The trial of the case will take sufficient long time. Keeping in view the arguments raised by both the sides and perusing the record, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail to the petitioner.



8. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case

27.08.2024
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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