

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-57102-2023
DECIDED ON: 05.02.2024

MANPREET SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Dr. Anmol Rattan Sidhu, Sr. Advocate with
Mr. Kanishk Sarup, Mr. Sandeep Kumar and
Mr. Tarnjot Singh Sidana, Advocate
for the petitioner.

Mr. Sanish Girdhar, AAG Punjab.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Section 439 Cr.P.C., seeking regular bail to the petitioner in FIR No.177, dated 18.09.2022, under Section 15 of NDPS Act, 1985, registered at Police Station City Rupnagar, District Rupnagar (Annexure P-1)-charges framed under Section 15 read with Section 29 of NDPS Act.
2. Learned Sr. counsel appearing on behalf of the petitioner submits that this is the 3rd bail petition for regular bail before this Court, while referring to the order dated 22.03.2023 (Annexure P-3) passed in CRM-M-6863-2023 vide which the first regular bail petition was dismissed by a speaking order of this Court to assert that the correct facts were not brought to the notice at that time, wherein in a FIR mentioned of identical nature bearing No.142 dated 23.08.2022, under Sections

15 & 29 of NDPS Act, registered at Police Station Machiwara, the petitioner was stated to be not on bail, but actually he was on bail and in that case the quantity i.e., 10 kg poppy husk was non-commercial in nature and that too was not effected from the possession of the petitioner.

3. He further submits that in the instant case, the quantity is 200 kg of poppy husk and it was also effected from other two co-accused persons namely Gurdeep Singh and Gurmeet Singh, who are behind bars and petitioner being the brother of Gurmeet Singh was nominated as an accused under Section 29 of NDPS Act and, therefore, applicability of Section 37 of Act would not be attracted in the instant case qua the petitioner at least.

4. Learned State counsel has filed the custody certificate of the petitioner, which is taken on record and according to same, the petitioner is behind the bars for the last 1 year, 4 months and 14 days.

5. Considering the fact that the petitioner has been nominated as an accused under Section 29 of NDPS Act and in the other case, wherein recovery was non-commercial in nature, he is on bail added with the fact that conclusion of trial shall take sufficient time, as out of total 15 prosecution witnesses only 4 have been examined after the framing of charges on 15.03.2023, no useful purpose would be served by keeping the petitioner behind bars for uncertain period, which would also curtail his right to life and liberty, as enshrined under Article 21 of Constitution of India and is against the basic principle of criminal jurisprudence i.e., ***'Bail is a rule and Jail is an exception'***.

In view of the above discussions made hereinabove, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the Trial Court/Duty Magistrate, concerned.

6. The present petition is, hereby, allowed.

7. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

05.02.2024

Meenu

(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>