

2024:PHHC:059695

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No.59865 of 2023
Date of Decision:29.04.2024

Ajay Pal

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: *HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA*

Present:- Ms. Taranjit Kaur Hundal, Advocate and
Ms. Harnaaz Kaur Hundal, Advocate
for the petitioner.

Ms. Sukhmani Kaur Riar, AAG, Punjab
for the respondent-State.

MEENAKSHI I. MEHTA, J.

By way of the instant petition, the petitioner, above-named, has made the 3rd attempt to seek the relief of regular bail in the criminal case arisen out of the FIR bearing No.132 dated 27.08.2021 registered at Police Station Garhshankar, District Hoshiarpur, under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act'), as the first petition bearing **CRM-M No.53594 of 2021**, filed by him for seeking the same relief, was dismissed vide the order dated 14.09.2022 (Annexure P-1/A) for its having been withdrawn whereas the second bail petition having **CRM-M No.6941 of 2023**, had been dismissed by this Court on 01.08.2023 vide the order Annexure P-1 (on merits), after hearing learned counsel for both the parties.

2. Bereft of unnecessary details, the allegations, levelled by the prosecution against the petitioner in this case, are that on 27.08.2021, when the police party, headed by the SHO of the afore-said Police Station, was on its way from Village Rawalpindi towards the River Bridge on Banga Road in the Government vehicle, they saw that two Swift Cars bearing registration Nos. PB-32-T-1500 and PB-37-3019, had been parked near the Bridge and some persons were unloading heavy jute-bags from the same but on noticing the police party, they fled away from the spot along-with their vehicles, while hitting the above-said Government vehicle. The police party recovered one jute-bag, which had been left by the occupants of the Cars while escaping from there and it contained 20 kg poppy-husk. Some police officials chased those Cars and found the one, having registration No.PB-32-T-1500, parked at the Bus Stand of Village Ishpur and four bags, each containing 20 kg poppy-husk, kept therein. During the investigation, it was revealed that the said Car belonged to the petitioner and he suffered a disclosure statement regarding the afore-referred contraband.

3. Short Reply has already been filed on behalf of the respondent -State, by way of the affidavit of the Deputy Superintendent of Police, Sub-Division Garhshankar, District Hoshiarpur.

4. I have heard learned counsel for the petitioner as well as learned State counsel in the present petition and have also gone through the file carefully.

5. Learned counsel for the petitioner have contended that only one bag, containing 20 kg poppy-husk, is alleged to have been found lying

on the road and recovered by the police and the above-said quantity does not fall within the category of '*commercial quantity*' and even otherwise, the petitioner has been got falsely implicated in this case and the disclosure statement, as stated to have been suffered by him, cannot be taken to be sufficient at all to link him with the alleged commission of the offence and moreover, he has been in custody since the day of his arrest, i.e 13.10.2021 and in these circumstances, he (petitioner) deserves the relief, as prayed for in the instant petition.

6. Per contra, learned State counsel has argued that the quantity of the poppy-husk, as recovered in the present case, falls under the category of '*commercial quantity*' and it being so, Section 37 of the NDPS Act is applicable to this case and hence, the instant petition deserves dismissal.

7. As regards the contention qua the recovery of only one bag, as found lying on the road and containing 20 kg poppy-husk, the same is not tenable at all because in the afore-referred order Annexure P-1 and also in the Short Reply as filed in this petition, it has categorically been mentioned that besides the above-said one bag, four more bags, each containing 20 kg poppy-husk, had been recovered from one of the Cars, left at the Bus Stand and this Car was found to be belonging to the petitioner, meaning thereby that total 100 kg poppy-husk had, allegedly, been recovered in the present case which, explicitly, falls under the category of '*commercial quantity*'.

8. So far as the contentions regarding the petitioner having been falsely implicated in the criminal case under reference and the evidentiary value of the disclosure statement as stated to have been suffered by him,

are concerned, it is worth-while to mention here that these contentions have already been specifically dealt with and adjudicated upon by this Court in the order Annexure P-1 and therefore, the same are no more available to the petitioner in this petition.

9. Then, mere period of custody as undergone by the petitioner, can, by no stretch of imagination, be construed to be a cogent ground to extend the relief of regular bail to him and that too, in the circumstances when the quantity of the poppy-husk, as allegedly recovered in the case, falls under the category of the '*commercial quantity*', attracting the rigours of Section 37 of the NDPS Act.

10. Keeping in view the afore-discussed facts and circumstances as well as the gravity of the offence as alleged to have been committed by the petitioner, this Court is of the considered opinion that he (petitioner) does not deserve the relief of regular bail. Resultantly, the petition in hand stands dismissed accordingly.

(MEENAKSHI I. MEHTA)
JUDGE

29.04.2024
pooja

Whether speaking/reasoned: Yes
Whether Reportable: Yes