

CRM-M-64186-2023(O&M)

Date of Decision:07.03.2024

VED PARKASH

....Petitioner

VERSUS

STATE OF PUNJAB

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Sameer S. Tiwari, Advocate
for the petitioner.

Mr. Inderjeet Singh, DAG, Punjab.

KARAMJIT SINGH, J.

Prayer in the third petition under Section 439 of Code of Criminal Procedure is for grant of regular bail to the petitioner in case FIR No.12 dated 20.01.2022 registered for the offences punishable under Sections 15, 61, 85 of NDPS Act at Police Station City Samana, District Patiala.

2. The allegations in nutshell are that police received secret information and thereafter effected recovery of 100 Kg of poppy husk from the present petitioner on 20.01.2022. The petitioner was arrested at the spot while his co-accused Jaggi Singh managed to escape from there.

3. Counsel for the petitioner submits that the petitioner was falsely implicated in the present case and is in custody for the last more than 2 year and 1 month and is having no criminal antecedents. It is further submitted that the trial is not progressing ahead and it will take considerable time for final disposal of the trial. So, prayer is made that the petitioner be released on regular bail.

4. Status report by way of an affidavit of Neha Aggarwal, PPS, Deputy Superintendent of Police, Sub Division Samana, District Patiala filed on behalf of State is taken on record.

5. On the other hand, the present petition is resisted by the State counsel who on instructions from ASI Sinder Singh submits that no doubt the petitioner is in custody for the last more than 2 year and 1 month but the present case is relating to recovery of commercial quantity of poppy husk and thus covered under stringent provisions of Section 37 of the NDPS Act. However, the State counsel has not disputed the fact that out of total 14 witnesses prosecution is able to examine only 2 witnesses till date and that the petitioner is having no criminal history.

6. I have considered the submissions made by the counsel for the parties.

7. As per prosecution version, 100 Kg of poppy husk which comes under commercial quantity was recovered from the petitioner. The petitioner is in custody for last more than 2 year and 1 month and as per custody certificate petitioner is having no criminal antecedents. As has been admitted by the State counsel, it will take time for trial to conclude. There is nothing on the record to show that delay in trial has occurred due to act and conduct of the petitioner. In the given circumstances, as petitioner is not responsible for the delay in proceedings before the trial Court, further incarceration of the petitioner would be violative of his rights enshrined under Article 21 of the Constitution of India and aforesaid delay has also resulted into dilution of the rigors of Section 37 of NDPS Act.

8. In the given circumstances, no gainful purpose is going to be served by keeping the petitioner in custody for any further period.

9.

In view of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.
10.

Pending application, if any, also stands disposed of.

07.03.2024

Priyanka Thakur

(KARAMJIT SINGH)

JUDGE

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No