



**213 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-63833-2023

Date of decision : 30.07.2024

Sukhchain Singh @ Happy

.....Petitioner

versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Amit Choudhary, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

RAJESH BHARDWAJ, J. (Oral)

Petitioner has approached this Court by way of present petition praying for grant of regular bail in case FIR No.33 dated 20.01.2023, under Sections 15-C, 27-A and 31 of the NDPS Act, 1985, registered at Police Station Sadar Fatehabad District Fatehabad.

As per the facts of the case, police received a secret information that Ravi @ Bhaiya is involved in smuggling of poppy husk and he was coming on the car along with the contraband. If the barricade is laid then he can be arrested along with the contraband. On receiving the secret information, police party laid the barricade and white colour car was stopped as informed by the secret informer. On asking the name of driver, he disclosed his name to be Ravi @ Bhaiya and five bags were found lying in the car. On giving the offer, the search of the bags was conducted and the same were found to be containing poppy husk. Each bag was found to be weighing 20 kgs and thus, in all 100 kgs poppy husk was recovered from Ravi @ Bhaiya. On registration of the FIR, investigation commenced. During investigation, accused Ravi @ Bhaiya disclosed about the petitioner Sukhchain Singh @ Happy having supplied the contraband to him and thus,



he was also arrayed as an accused. Petitioner was arrested on 04.10.2023. He approached the learned Additional Sessions Judge, Fatehabad praying for grant of bail. However, the same was declined vide order dated 02.12.2023. Hence, petitioner is before this Court praying for grant of bail.

It has been contended by the counsel for the petitioner that neither there is any recovery made from the petitioner nor he has been arrested on the spot. He submits that the petitioner has been arrayed as an accused on the basis of disclosure statement of co-accused Ravi @ Bhaiya. He further submits that the disclosure statement of the co-accused is not an admissible evidence. He submits that though the petitioner has been falsely implicated in two other cases for the non-commercial quantity however, he is on bail in both the cases. It is further submitted that the investigation in the present case is complete and the charges are also framed however, till date, the prosecution could examine only 01 witness. He has submitted that in the facts and circumstances of the case, when there is no admissible evidence against the petitioner, he deserves to be granted bail.

Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner. He submits that though name of the petitioner is mentioned in the FIR, and his complicity as a supplier has been found on the basis of disclosure statement of the co-accused from whom commercial quantity of poppy husk has been recovered. Even as per the call details report, complicity of the petitioner is established. He has submitted that petitioner is involved in two other cases pertaining to non-commercial quantity however, he is on bail in both the cases. He, on instructions, has submitted that out of 23 prosecution witnesses, only 01 witness has been examined till date.



Heard. On hearing counsel for the parties and perusing the record, it is apparent that though name of the petitioner is not mentioned in the FIR, however, his complicity as a supplier has been surfaced on the basis of disclosure statement of the co-accused. The secret information was received qua co-accused Ravi @ Bhaiya from whom the commercial quantity of 100 kg of poppy husk was recovered. Petitioner though is involved in two other cases pertaining to non-commercial quantity however, as submitted, he is on bail in both the cases. He submits that out of 23 prosecution witnesses only 01 witness has been examined till date.

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 sufficiently 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. 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.

30.07.2024
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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