



CRM-M-65311-2023

1

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-65311-2023
Date of decision: 17.09.2024

Jagwinder Singh @ Jagga Petitioner

Versus

State of Punjab Respondent

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Gurpal Singh Sandhu, Advocate for the petitioner.

Ms. Avneet AAG, Punjab.

GURBIR SINGH, J.(Oral)

1. Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in FIR No.90 dated 11.07.2023 under Sections 15(c), 29, 61, 85 of NDPS registered at Police Station Khuian Sarwar, District Fazilka.

2. As per version of prosecution on 11.07.2023, the police party headed by ASI Sukhdev Singh was present at Barrier/Naka at Village Gumjal, Tehsil Abohar. A truck bearing RJ-13GB-7198 was seen coming from the side of Sri Ganganagar(Rajasthan). ASI Sukhdev Singh gave signal for stopping the truck. There were two persons including the driver in the said truck. They were apprehended and on asking the driver of the truck told his name as Gurwinder Singh @ Gindu and the person who was

**CRM-M-65311-2023****2**

sitting at the conductor seat told his name as Anlabhjeet Singh @ Love. The search was conducted as per rules and during search, 200 kg Poppy husk were recovered from the truck and same were taken into possession and both accused were arrested.

3. Learned counsel for the petitioner has argued that the petitioner has been nominated in the present case only on the basis of disclosure statement of co-accused Gurwinder Singh and Anlabhjeet Singh. The petitioner was not even present at the place of recovery. No recovery has been effected from the conscious possession of the petitioner. He further submits that there is only disclosure statement against the petitioner that the recovered contraband was loaded at the asking of the petitioner. The petitioner is in custody since 16.11.2023.

4. Learned State counsel relying on the status report already filed submits that the recovery of the contraband from the co-accused is of commercial quantity and they made a disclosure statement that the recovered contraband was to be supplied to the petitioner at his residence Rani Wala, Tehsil Malout. She fairly admits that the petitioner is in custody since 16.11.2023. She further submits that the petitioner is involved in four other cases under the NDPS Act so the petitioner is not entitled for concession of bail.

4.1 Report from the concerned Court was called and the same has been received. The extract of the report is as under:-



CRM-M-65311-2023

3

“ On 12.01.2024, the three accused in the matter were produced before the court through video conferencing and they were directed to be produced in person on the next date i.e. 20.02.2024 for the purpose of supplying of copies of challan/final report to them and for consideration on charge. However, accused were neither produced on 20.02.2024 nor they have been produced on subsequent dates i.e. 24.04.2024, 24.05.2024 and 05.08.2024. despite repeated issuance of warrants for their production before the court in person.

As such, matter could not be considered till date for framing of charge and same is now pending for 28.08.2024. Warrants for production of accused in person before the Court have been issued for said date as well.”

5. I have heard the submissions of learned counsel for the parties and have gone through the paper book.

6. There is no other evidence collected against the petitioner except the disclosure statement made by the co-accused. The co-accused made statement that contraband was loaded at the instance of the petitioner and the same was to be supplied to the petitioner. I draw support from the judgment passed in the case of ***Tofan Singh Versus State of Tamil Nadu, (2021) 4 SCC 1***. The statement of the co-accused is not admissible in evidence. Since the charge has been framed and completion of trial will take a long time, this Court deems it appropriate to release the petitioner on regular bail.

7. Accordingly, without commenting upon the merits of the case, the present petition is allowed and the petitioner is directed to be released on regular bail, on his furnishing bail bonds/surety bonds, to the satisfaction



CRM-M-65311-2023

4

of learned Trial Court/Duty Magistrate concerned with the following conditions:

- (i) that petitioner shall surrender his passport in the trial Court
- (ii) that petitioner shall get his mobile number registered on the CIS to receive messages and shall not change his mobile number during the pendency of the case except with prior permission of Court concerned.
- (iii) that petitioner shall disclose to the concerned police station his residence address and he shall not change his said residence address without informing the concerned Police Station and trial court.

8. The Court concerned may impose any other conditions. In case of default, the Court concerned is competent to cancel the bail granted to the petitioner(s).

9. It is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case and the trial court shall decide the case on the basis of material available before it.

(GURBIR SINGH)
JUDGE

17.09.2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No