



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

CRM-M-55198-2024
Date of decision: 14.01.2025

Davinder Singh @ Gindu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. L.S. Sekhon, Advocate for the petitioner.

Mr. J.S. Dhaliwal, AAG, Punjab.

KARAMJIT SINGH, J. (ORAL)

1. The present petition under Section 482 of BNSS 2023 is filed by the petitioner seeking grant of regular bail in a criminal case having FIR No.42 dated 14.04.2024, under Sections 15(c)/25/29/61/85 of NDPS Act, Police Station Dhanaula, District Barnala.

2. The allegations in nutshell are that police recovered 21 quintals of poppy husk from a canter having registration No.HR-69-C-1373 on 14.04.2024, which was driven by co-accused Vikram Kumar. During investigation, Vikram Kumar suffered disclosure statement on 16.04.2024 to the effect that the aforesaid contraband was supplied to him by another co-accused Surinder Kumar. Consequently, said Surinder Kumar @ Surinder Jakhar was arrested on 30.06.2024 by the police. Co-accused Surinder Kumar during his interrogation suffered disclosure statement that he used to supply contraband to present petitioner. On the basis of said disclosure statement, the petitioner was arrested on 04.09.2024. The



petitioner got recovered 20 kg of poppy husk on 06.09.2024, during the investigation of the case.

3. The counsel for the petitioner *inter alia* submits that the petitioner who is having no criminal history under NDPS Act was falsely nominated as accused on the basis of alleged disclosure statement suffered by co-accused Surinder Kumar, from whom no contraband was recovered during the investigation. The said disclosure statement is inadmissible in evidence, as per the law laid down by Hon'ble Supreme Court in ***Tofan Singh Vs. Tamil Nadu (2021) 4 SCC 1***. It is further submitted that petitioner is incarcerated for last more than 4 months and during investigation, petitioner is stated to have effected recovery of 20 kg of poppy husk from an open space and the said contraband comes under non commercial quantity and presently petitioner is lodged in judicial custody. It is further submitted that there are no call detail records or any other document to corroborate the alleged disclosure statement suffered by co-accused Surinder Kumar against the present petitioner. Further, there is nothing available on the record to connect the present petitioner with recovery of 21 quintal of poppy husk alleged to be effected from a vehicle having registration No.HR-69-C-1373. It is further submitted that in the given circumstances, no purpose is going to be served by keeping the petitioner in custody for any longer period, as it will take time for the trial to conclude.

4. Status report by way of affidavit of Satvir Singh, Deputy Superintendent of Police, Sub Division Barnala filed on behalf of the State was placed on record along with report of FSL Annexure R-1.



5. The present petition is resisted by the State counsel who submits that commercial quantity of poppy husk was recovered from a vehicle driven by co-accused Vikram Kumar, who during interrogation suffered disclosure statement to the effect that he procured the aforesaid contraband from co-accused Surinder Kumar and thereafter, petitioner was arrested on 04.09.2024 on the basis of disclosure statement suffered by aforesaid Surinder Kumar and on completion of investigation, police has presented challan and after framing of charges, no prosecution witnesses has been examined. The State counsel on instructions from ASI Jasbir Singh has admitted the fact that during investigation, no contraband was recovered from co-accused Surinder Kumar, but 20 kg of poppy husk was recovered by the police at instance of the present petitioner and that the petitioner and co-accused Surinder Kumar are having no criminal antecedents under NDPS Act.

6. Admittedly, the petitioner who was not named in the FIR was later on nominated as accused on the basis of disclosure statement suffered by co-accused Surinder Kumar from whom no contraband was recovered by the police. Surinder Kumar was nominated as accused on the basis of disclosure statement suffered by another accused Vikram Kumar. The veracity, relevancy and admissibility of the said disclosure statements will be tested during trial. The petitioner is in custody for the last more than 4 months and during investigation, 20 kg of poppy husk was stated to be recovered at the instance of petitioner, who is having no criminal history under NDPS Act. No contraband is recovered at the instance of co-accused Surinder Kumar who is having no criminal antecedents. The State counsel has failed to



produce any call detail records or some other documents corroborating the contents of the disclosure statement suffered by co-accused against the present petitioner. As per prosecution version, petitioner got effected recovery of 20 kg of poppy husk, after his arrest the said contraband comes under non commercial quantity and thus, is not covered under the stringent provision of Section 37 NDPS Act. It will take time for trial to terminate, as the same is at its initial stage. In the given circumstances, no purpose is going to be served by prolonging judicial custody of the petitioner.

7. 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.

14.01.2025

Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No