2025:PHHC:011400

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

230

CRM-M-59479-2024 (O&M)
Date of decision: 27.01.2025

Harpreet Singh @ Hariya **...Petitioner**

Versus

State of Punjab **...Respondent**

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. S. P. S. Aulakh, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

MANISHA BATRA, J. *(Oral)*

1. Prayer in this petition, filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 *(for short 'BNSS')*, is for grant of regular bail to the petitioner in FIR No. 26 dated 23.03.2024, registered under Sections 15, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 *(for short 'NDPS Act')* at Police Station Bhadaur, District Barnala.

2. Brief facts of the case relevant for the disposal of the present petition are that on 23.03.2024, a secret information was received by Inspector Tek Chand to the effect that co-accused Dharam Singh, whose house is in village Chhanna, his nephew Arshdeep Singh @ Arshu, his friend Harpreet Singh @ Haria (present petitioner) Harmandar Singh @ Fiddu keep poppy husk scrap and sell poppy husk scrap from the said house. Believing the information to be true, a raid was conducted at the house of

MOHAMMAD WASEEM ANSARI
2025.01.28 14:58
I attest to the accuracy and
integrity of this document

co-accused Dharam Singh at about 10:35 AM and co-accused Arshdeep Singh, petitioner Harpreet Singh and co-accused Harmandar Singh were apprehended at the spot. During checking of the house, two bags containing poppy husk were recovered. On weighing the same, each of them was found to be containing 20 Kgs. of poppy husk. The same was taken into possession while following the proper procedure. The aforesaid co-accused including the petitioner were formally arrested at the spot. During investigation, co-accused Harpreet Singh @ Haria disclosed that he had brought poppy husk along with his friends Arshdeep Singh and petitioner Harmandar Singh. He also stated that he had brought another sack of poppy husk, which was hidden in the trunk of the car bearing registration number PB-29-X-2888. Thereafter, in pursuance of the disclosure of co-accused Harpreet Singh, 60 kgs. of poppy husk was recovered from the said car. After completion of necessary investigation and usual formalities, *challan* was presented in the Court and presently, the petitioner along with the co-accused is facing trial for commission of aforesaid mentioned offences. He had moved an application before the trial Court for grant of regular bail but the same had been dismissed, vide order dated 30.05.2024.

3. Learned counsel for the petitioner has argued that he has been falsely implicated in this case. As per own version of the prosecution, only 40 kgs. of poppy husk was recovered from the petitioner and co-accused and 60 kgs. of poppy husk was recovered subsequently from the trunk of the said car, which cannot be connected with the present petitioner since the concerned car had already been sold by him to one Lakhwinder Singh, who had sworn affidavit (Annexure P-4) in this regard. Even otherwise,

MOHAMMAD WASEEM ANSARI
2025.01.28 14:58
I attest to the accuracy and
integrity of this document

mandatory provisions of Sections 42 and 50 of the NDPS Act were not properly complied with. No independent witness was joined by the police party. There is nothing on record to connect the petitioner with the subject crime. Investigation has since been completed and *challan* has been presented. Conclusion of trial is likely to take time. The petitioner is in judicial custody since 23.03.2024. No useful purpose would be served by keeping him in custody anymore. Co-accused Amritpal Singh @ Landa has already been granted concession of regular bail by this Court, vide order dated 01.10.2024 passed in ***CRM-M-39811-2024***. On the grounds of parity, the petitioner too deserves to be granted the same benefit. Therefore, it is urged that the petition deserves to be allowed and the petitioner deserves to be released on regular bail.

4. Status report has been filed by the respondent-State. It is submitted therein and learned Assistant Advocate General, Punjab has argued that the petitioner is not entitled to get benefit of bail as a commercial quantity of the contraband has been recovered in this case. He was nabbed at the spot from the house of co-accused Dharam Singh, who is still absconding. His story regarding false implication is concocted one. It is further argued that since the quantity of the recovered contraband falls under the commercial quantity, the rigors of Section 37 of the NDPS Act would be attracted against the petitioner. The criminal antecedents of the petitioner are not clean as he is involved in three more criminal cases. It is also argued that if released on bail, the petitioner may abscond or indulge in similar offences. Hence, it is urged that the petition is liable to be dismissed.

5. I have heard learned counsel for the parties at considerable

MOHAMMAD WASEEM ANSARI
2025.01.28 14:58
I attest to the accuracy and
integrity of this document

length and have also perused the material placed on record.

6. As per the allegations, the petitioner along with aforesaid co-accused was involved in the sale/purchase of poppy husk. A commercial quantity of the poppy husk has been recovered in this case. When the raid was conducted at the house of co-accused Dharma Singh, the petitioner along with co-accused were apprehended at the spot but co-accused Dharam Singh succeeded in running away, who is still absconding. A commercial quantity of the contraband has been recovered in this case. Hence, the rigors of Section 37 of the NDPS Act would certainly be attracted against the petitioner. So far as the arguments raised by learned counsel for the petitioner with regard to alleged lacunas in the investigation are concerned, the same is to be looked into by the learned trial Court after appreciating the entire evidence produced before it and not by this Court at the stage of deciding a bail petition filed under Section 483 of BNSS. The trial is going on and there is nothing on record to suggest that there would be any undue delay in conclusion of the same. So far as the claim of the petitioner for parity with co-accused Amritpal Singh @ Landa is concerned, the case of the petitioner is on different footing as he was apprehended at the spot, whereas the said co-accused was nominated in this case on the basis of the disclosure statement and no subsequent recovery of any contraband was effected from him. The affidavit (Annexure P-4), alleged to be sworn by one Lakhwinder Singh qua purchase of the car from which subsequent recovery of 60 kgs. of poppy husk was effected, cannot be considered to be a valid proof qua transfer of vehicle at this stage. The apprehension of learned Assistant Advocate General, Punjab that if released on bail, the petitioner

MOHAMMAD WASEEM ANSARI
2025.01.28 14:58
I attest to the accuracy and
integrity of this document

may abscond or indulge in similar offences cannot be stated to be unfounded, at this stage. Keeping in view the gravity of allegations as levelled against the petitioner, the quantity of alleged contraband recovered in this case, the quantum of sentence which the conviction may entail and the attendant facts and circumstances of the case, I am of the considered opinion that he does not deserve to be granted concession of regular bail, at this stage. Accordingly, the present petition is dismissed.

7. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

27.01.2025 **(MANISHA BATRA)**
Waseem Ansari **JUDGE**

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*

MOHAMMAD WASEEM ANSARI
2025.01.28 14:58
I attest to the accuracy and
integrity of this document