

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

CRM-M No.21398 of 2016 (O&M)

Date of decision: June 22, 2016

Arjun Singh

----Petitioner

Versus

State of Haryana

----Respondent

Coram: Hon'ble Mr. Justice Harinder Singh Sidhu

Present: Mr.K.B.Raheja, Advocate for the petitioner.

Mr.Rajneesh Chadwal, DAG, Haryana.

HARINDER SINGH SIDHU, J.

By filing this petition under Section 439 of the Code of Criminal Procedure, petitioner Arjun Singh seeks bail in case FIR No.123 dated 23.02.2016 under Sections 15, 16 and 27-A of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station City Sirsa, District Sirsa.

The allegations are that on 23.02.20016, while the Police party was on patrol duty, on suspicion a Maruti Dzire car bearing Reg.No.HR-24M-0340 was chased and Deepak Kumar @ Deepu and Vikram accused, were nabbed. The third occupant of the car Gurmit Singh had managed to escape, but he was also nabbed after a chase. On search of the three plastic bags lying on the rear seat of the car, the same were found containing poppy

husk powder. Two samples of 100 gms were taken from each bag and

remainder in two bags was found to be 19 Kg. 800 gms, each, while the third bag was weighing 10 kg. 800 gms. In other words, total 51 kg. of poppy husk powder was recovered from the car. The car was also taken into possession by way of seizure memo and it was found to be owned by one Raj Kumar @ Raju. It was during the course of interrogation that accused Vikram disclosed that the recovered poppy husk was purchased by him and Raj Kumar from Arjun, the petitioner.

Ld. Counsel for the petitioner has contended that the petitioner has been falsely involved in the case. He states that two more cases i.e. FIR No.362 dt. 15.11.2015 and FIR No.45 dated 10.3.2016, wherein, alleged recovery 5 kg. and 7 kg. of poppy husk, respectively, was made, have also been registered against him in Police Station Sadar Sirsa, wherein, he has been allowed bail vide orders Annexure P-2 and P-3 passed by Additional Sessions Judge, Sirsa.

He further states that even if the allegations of recovery from three co-accused is believed, and the recovered contraband is divided among three, then every one of them was carrying 17 kgs. of poppy husk, which is a non-commercial quantity. Also the total contraband of 51 Kg is only slightly above the commercial quantity. He has also doubted the weighing procedure of the prosecution agency stating that nowhere it has been mentioned by the Police that as to what type of weighing scale was arranged at the spot to measure the alleged contraband. Reliance has also placed on **Charanjit Singh @ Phuman vs. State of Punjab, CRM-M-36969 of 2015** decided on 4.11.2015. In the said case, 52 kgs of poppy husk was

questioned. In **Ram Singh vs. State of Punjab**, CRM-M-17345 of 2008 **decided on 23.9.2008**, wherein, recovery of 60 kgs. of contraband was attributed to three persons , bail was allowed to the accused.

Ld. Counsel contends that he was neither arrested at the spot, nor any recovery was made from him.

In view of above, without expressing any opinion on the merits of the case, the petition is allowed and it is ordered that Arjun Singh – petitioner be released on bail on his furnishing bail/surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate, Sirsa.

22.6.2016

Atul

(HARINDER SINGH SIDHU)

JUDGE