

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

CRM No.M-10501 of 2017 (O&M)

Date of decision: May 11, 2017

Amandeep Singh alias Amni

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Ms. Sudha, Advocate for
Mr. Suvir Sidhu, Advocate, for the petitioner.

INDERJIT SINGH, J.

Petitioner-Amandeep Singh alias Amni has filed this petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.36, dated 05.04.2016, registered at Police Station Bhogpur, District Jalandhar, under Sections 16 and 17 of NDPS Act (charge framed under Section 18(b) of the NDPS Act).

Notice of motion has been issued in this case. Mr. V.P.S.Sidhu, Asstt. Advocate General, Punjab, has put in appearance on behalf of the respondent-State and contested this petition.

I have heard learned counsel for the petitioner as well as learned State counsel and gone through the record.

From the record, I find that as per the prosecution version, the allegation against the present petitioner and co-accused is that they have done farming of opium poppy. The plants of opium poppy weighing 182 kgs were taken into police possession. As per Note 3, at the end of table of the NDPS Act, 1985, where the quantities have been shown as small or

commercial etc, it is written that “Small Quantity” and “Commercial Quantity” with respect to cultivation of opium poppy is not specified separately as the offence in this regard is covered under clause (c) of Section 18 of the NDPS Act, 1985. Section 18(c) of the NDPS Act states “in any other case, with rigorous imprisonment which may extend to ten years and with fine which may extend to one lakh rupees”. Section 18(b) of the NDPS Act deals with the contravention involving commercial quantity. Section 37 of the NDPS Act bars the grant of bail under Sections 19, 24 and 27-A of the NDPS Act and also for the offences involving commercial quantity. Therefore, in the present case, Section 37 of the NDPS Act will not apply.

Moreover, the petitioner has been in custody since 05.04.2016. He is not required for any investigation or interrogation purposes as he is in judicial custody. The trial of the case will take long time. No useful purpose will be served by keeping the petitioner in custody till the final disposal of the case.

Keeping in view the facts and circumstances of the present case; without discussing the facts in minute detail and without expressing any opinion on the merits of the case, this criminal miscellaneous petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing personal bonds in the sum of Rs.50,000/- with one surety in the like amount to the satisfaction of the trial Court/Duty Magistrate.

May 11, 2017

rajesh k.khurana

Whether speaking/reasoned

Whether Reportable

(INDERJIT SINGH)

JUDGE

Yes

No