

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

CRM-M-28245 of 2017.

Decided on:-13.09.2017.

Satpal Singh @ Satta.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Ms. Puja Chopra, Advocate
for the petitioner.

Mr. A.S. Dhaliwal, DAG, Punjab.

HARI PAL VERMA, J.

The petitioner has filed present petition under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No.0047 dated 23.03.2017 under Sections 18 and 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, the NDPS Act) (Section 15 of the NDPS Act was added in Challan) registered at Police Station Pattran, District Patiala.

Learned counsel for the petitioner has argued that the total alleged recovered quantity is 42 Kgs 700 Gms of poppy plants. However, while treating the quantity as opium poppy, as defines under Section 2(xvii) of the NDPS Act, the petitioner has been denied bail by the learned Special Court, Patiala.

She has further argued that the major part of the crop of poppy plants was already harvested and only a small quantity was required to be

harvested. Therefore, the alleged recovery is required to be treated under Section 2 (xviii) of the NDPS Act which deals with the poppy straw.

On the other hand, learned State counsel, on instructions from Head Constable Gurbaj Singh, has argued that since the poppy crop was partly harvested before the police reached the spot, therefore, the remaining standing poppy crop was required to be dealt with under Section 2(xvii) of the NDPS Act.

I have heard learned counsel for the parties.

The terms ‘opium poppy’ and ‘poppy straw’ have been defined in Section 2(xvii) and (xviii) of the NDPS Act and the same read as under:

“2(xvii) ‘*opium poppy*’ means:—

- (a) *the plant of the species Papaver somniferum L.; and*
- (b) *the plant of any other species of Papaver from which opium or any phenanthrene alkaloid can be extracted and which the Central Government may, by notification in the Official Gazette, declare to be opium poppy for the purposes of this Act;*

2(xviii) “ ‘*poppy straw*’ means all parts (except the seeds) of the opium poppy after harvesting whether in their original form or cut, crushed or powdered and whether or not juice has been extracted therefrom.”

The recovered material in this case, no doubt, includes standing poppy plants as well as the plants harvested by the petitioner and total weight comes to 42 Kgs and 700 Gms. In the absence of any specific weight as to how much quantity was ‘poppy straw’ and how much was ‘opium poppy’, but

taking into consideration the total quantity i.e. 42 Kgs and 700 Gms coupled with the fact that the petitioner is in custody since 23.03.2017 and no other case has been pointed out against him, this Court deems it appropriate to release the petitioner on bail. Even otherwise, trial in the case is at initial stage.

Therefore, the present petition is allowed and the petitioner is ordered to be admitted on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court.

The observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

September 13, 2017
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No