

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

**Criminal Misc. No. M-19911 of 2018
Date of decision: 06.09.2018**

Sajad Ahmad Bhat

..Petitioner

Versus

State of Punjab

..Respondent

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present: Mr. Gursimran Singh Madaan, Advocate
for the petitioner.

Mr. Amit Mehta, Sr. DAG, Punjab
for the respondent-State.

Daya Chaudhary, J.

The present petition has been filed by petitioner-Sajad Ahmad Bhat under Section 439 Cr.P.C. for grant of regular bail in case FIR No.30 dated 11.03.2018 registered under Section 15/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 IPC at Police Station Mehatpur, District Jalandhar during pendency of the trial.

Learned counsel for the petitioner submits that the recovery of contraband was not effected from the possession of the petitioner but from the bag, which was lying near the place where the petitioner was sitting. It cannot be said to be a case of conscious possession. Learned counsel further submits that the alleged recovery is marginally more than the non-commercial quantity. The petitioner is in custody since 11.03.2018. All the witnesses are official witnesses and there is no possibility that the petitioner may influence the witnesses or tamper with the evidence. Learned counsel also submits that there is non-compliance of provisions of Section 50 of the NDPS Act as the samples were drawn and form M-29 was prepared with the

seal of ASI, which was handed over to companion Police officer ASI

Balwinder Singh. Learned counsel also submits that total 52 kgs of poppy husk was recovered and upto 50 kgs poppy husk is non-commercial. No purpose would be served by keeping the petitioner in custody. Learned counsel also submits that by considering the custody and role attributed to the petitioner, he is entitled to regular bail.

Learned State counsel has not disputed the custody period as well as alleged recovery of 52 kgs of poppy husk.

Heard arguments of learned counsel for the petitioner as well as learned State counsel and have also perused the contents of the FIR and other documents available on the file.

Admittedly, the alleged recovery is 52 kgs of poppy husk, which is marginally more than the non-commercial quantity and the same was not effected from the conscious possession of the petitioner. The petitioner is in custody since 11.03.2018 and no other case of NDPS Act is pending against him. All the witnesses are official witnesses and there is no possibility that the petitioner may influence the witnesses or tamper with the evidence. The trial may take long time to conclude and no purpose would be served by keeping the petitioner in custody.

Accordingly, the present petition is allowed and the petitioner (Sajad Ahmad Bhat) is directed to be released on regular bail subject to his furnishing bail bond and adequate local sureties to the satisfaction of the trial Court.

06.09.2018
neetu

(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

Yes