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

CRM-M-29913-2018

Date of decision:01.12.2018.

SUKHDEV SINGH @ SUKHA

... Petitioner

Versus

STATE OF PUNJAB

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Jaideep Verma, Advocate, for the petitioner.

Mr.Rana Harjasdeep Singh, DAG, Punjab.

HARI PAL VERMA, J.(Oral)

Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner during pendency of trial in case FIR No.59 dated 27.03.2018 registered under Section 18 of NDPS Act at Police Station Sadar, Patiala.

As per the FIR, on 27.03.2018, when the police party was patolling in search of bad/suspicious persons, and at about 12.15 PM, when they were present at Hassanpur Prohta Chowk, they received an information through a secret informer that Sukhdev Singh son of S. Sardul Singh, resident of Village Panodian, Police Station Sadar, Tehsil and District Patiala (petitioner herein) has sowed poppy plants in his fields opposite the gurudwara Sahib, adjoining the onion fields, from which opium is being prepared. In order to hide the said cultivation of poppy plants, he has put a plastic cover over it and if a raid is conducted, then poppy plants in huge quantity can be recovered. Accordingly, the police team reached at the spot and in the agriculture field, a plastic covered portion was seen. When it was checked, a huge quantity dried and wet poppy plants were seen, from them,

officials plucked all the green poppy plants and collected them at one place and were put in a plastic bag. When weighed through digital weighing scale, it came out to be 25 kg., but the weight could be less than 25 kgs on being dry. The recovery memo was signed in the presence of the witnesses. In this manner, the aforesaid FIR was registered.

Learned counsel for the petitioner has argued that it is a debatable issue whether the recovery of contraband contains morphine and the offence of cultivating opium/poppy would only be covered under Section 18(c) of the NDPS Act. He has relied upon judgment dated 05.10.2016 passed by this Court in ***CRM-M-15417-2015*** titled as ***Gurcharan Singh Versus State of Haryana.***

Learned State counsel has argued that since the petitioner has sowed poppy plants from which morphine was detected in the FSL report, he is not entitled for the concession of bail.

I have heard learned counsel for the parties.

Considering the fact that the recovery of contraband from the petitioner is a debatable issue and the trial in the case will take long time, present petition is allowed and the petitioner is admitted on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court.

It is made clear that in case the petitioner is found indulged in any other case under the NDPS Act, the prosecution shall be at liberty to seek cancellation of his bail.

(HARI PAL VERMA)
JUDGE

01.12.2018

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Whether speaking/reasoned
Whether Reportable:

Yes/No.

Yes/No.