

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

CRM-M-44814-2018

Date of decision: December 06, 2018

Balwinder Singh @ Khundri

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. D.N. Ganeriwala, Advocate
for the petitioner.

Mr. V.G. Jauhar, Senior DAG, Punjab.

RAJ SHEKHAR ATTRI, J.(ORAL)

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to petitioner-Balwinder Singh @ Khundri, in case FIR No.37 dated 21.08.2018 registered for the offence punishable under Section 15 of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Khui Khera, District Fazilka.

It has been submitted that no recovery has been effected from the petitioner rather, recovery of 52 kg of poppy husk has been recovered from Sham Singh.

It is a case of the prosecution that the petitioner was driving the vehicle but on seeing the police party, he escaped. It is highly surprising that recovery has been effected in day time and police party was constituted of seven persons. Apart from it, recovery is marginally above than the commercial quantity.

Learned State counsel conceded that recovery of 52 kg of poppy husk was included the weight of the bags and it is doubtful whether same falls within commercial or non-commercial quantity of contraband.

Without expressing any opinion on merits of the case and the fact that conclusion of trial will take considerably long time, no useful purpose would be served by detaining the petitioner behind the bars, therefore, the present petition is allowed. Petitioner is ordered to be released on regular bail on furnishing bail bond and surety bond to the satisfaction of trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned subject to following terms:-

- (a) The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.
- (b) In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with law. In that eventuality the petitioner shall have to apply for bail afresh.
- (c) He shall not leave the country without the previous permission of the court.

(RAJ SHEKHAR ATTRI)
JUDGE

December 06, 2018

m. sharma

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No