

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.8475 of 2018
Date of Decision-03.04.2018

Anil ... Petitioner
Versus
State of Haryana ... Respondent

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Raman Chawla, Advocate
for the petitioner.

Ms. Neelam Kashyap, DAG, Haryana.

RAJ MOHAN SINGH, J.

[1]. Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.62 dated 21.05.2017 registered under Sections 15/61/85 of NDPS Act (challaned under Sections 15/25/27-A/29/61/85 of NDPS Act and Section 201 IPC) at Police Station Behal District Bhiwani.

[2]. FIR was registered on the basis of secret information when police party was on patrolling. The allegations were made against Krishan, his wife Roshni, his son Jitender and niece Vikas daughter of Mahabir whose husband is lodged in Sirsa jail in NDPS case and 3-4 other fellow members who had brought *chura post* on previous night from Rajasthan in a vehicle. The contraband was stocked in a room. Raid was conducted. At that time, two ladies and one young boy were standing at the gate of the house. On seeing the police party, they ran away by taking benefit of darkness towards Dhanis through Tibba land. When the

police entered the house with the help of other companions, a person was found sitting on a cot near the room. He disclosed his name as Krishan. After complying with the requirement of the Act, search of the house was conducted and 79 bags were found containing poppy straw. On being weighted by electronic weighing machine, 39 bags of black colour were found containing 20 kgs of poppy straw in each bag, 10 small bags of red colour were found containing 10 kgs of poppy straw in each bag, 5 bags of black colour were found containing 30 kgs of poppy straw in each bag, 1 white bag was found containing 15 kgs of poppy straw, 9 bags of yellow colour were found containing 20 kgs of *chura post* in each bag and 5 bags of red colour were found containing 20 kgs of poppy husk in each bag which were lying in various packets in red colour bags. Out of total 79 bags, 2-2 samples of 500 grams of poppy straw i.e. 158 parcels were prepared. Total weight of samples was 79 kgs. Remaining poppy husk and poppy straw were found to be 14 quintals and 5 kgs and the same were taken in police custody.

[3]. Learned counsel for the petitioner submitted that petitioner was arrested on 11.07.2017. Petitioner was not arrested from the spot. Name of the petitioner was disclosed by other co-accused after one month of registration of the case. Learned counsel further submitted that petitioner had also applied bail under Section 167(2) Cr.P.C, but the same was declined on the ground of maintainability. Co-accused Vikram @ Dhillu was

granted bail under Section 167(2) Cr.PC by this Court vide order dated 17.02.2018 passed in CRR No.4855 of 2017. Learned counsel also submitted that at the time of registration of FIR, petitioner was lodged in District Jail Sirsa in FIR No.63 dated 01.05.2017 registered under Section 15/16/61/85 of NDPS Act at Police Station Ding and no contraband was recovered from him.

[4]. On the other hand, learned State Counsel submitted that name of the petitioner was disclosed by co-accused Krishan and involvement of the petitioner in other cases of NDPS shows that he is a habitual offender. The recovery effected from the house of Krishan was commercial in nature.

[5]. In case of co-accused Hukmi Chand @ Madu, Co-ordinate Bench of this Court vide order dated 10.10.2017 passed in CRM-M No.37361 of 2017 dismissed the regular bail after noticing the fact that he was named by the petitioner and Kanwar Pal in the case. Huge quantity of *chura post* i.e. 1505 kgs was recovered from the house of co-accused Krishan.

[6]. Perusal of the record would show that the grouse of the petitioner against dismissal of his prayer under Section 167(2) Cr.P.C cannot be entertained as the petitioner has not challenged the said order. Petitioner is involved in other cases of NDPS Act. His name was disclosed by the main accused.

[7]. Taking into consideration the recovery of huge contraband and without meaning anything on the merits of the

case and in view of Section 37 of the Act, no ground for grant of regular bail to the petitioner is made out. The present petition is accordingly dismissed.

[8]. Nothing expressed hereinabove would be construed to be an expression of any opinion on the merits of the case.

(RAJ MOHAN SINGH)
JUDGE

03.04.2018
Prince

Whether Reasoned/Speaking	Yes/No
Whether Reportable	Yes/No