

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.9427 of 2018
Date of Decision-03.04.2018

Kanwar Sain ... Petitioner
Versus
State of Haryana ... Respondent

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

Present: Mr. Atul Lakhanpal, Sr. Advocate with
Ms. Babli Kumari, 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 is involved only in one NDPS case. Other cases were under Indian Penal Code and there was no case after the year 2009. Any confession in police custody is of no material significant. Petitioner is not amongst those who ran away from the spot, nor the petitioner is connected with the case in any manner. No recovery has been effected from the petitioner.

[4]. On the other hand, learned State Counsel submitted that the complicity of the petitioner has come to fore on the basis of disclosure statement of co-accused Krishan. Huge recovery of poppy straw has been effected from the house of Krishan who has named the petitioner in his disclosure statement. The complicity of the petitioner viz-a-viz his antecedent behavior would be tested with reference to evidence before the trial Court. Since the recovery is of commercial quantity, therefore, petitioner is not entitled to regular bail.

[5]. Keeping in view recovery of huge quantity of contraband from the house of co-accused Krishan who has named the petitioner in his disclosure statement and track record of the petitioner 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.

[6]. 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