

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

CRM-M-8306-2019

Date of Decision:05.03.2019

Kimti Lal

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Fatehjeet Singh, Advocate
for the petitioner.

Mr. Rajat Bansal, A.A.G. Punjab.

RAJBIR SEHRAWAT, J. (Oral)

Through this petition, the petitioner has sought for bail pending trial in case FIR No.155 dated 27.08.2017 registered under Section 15/61/85 of NDPS Act at Police Station Bhogpur, District Jalandhars.

Learned counsel for the petitioner contends that although the alleged recovery from the truck of the petitioner is 435 Kg of Poppy Husk, however, the petitioner is alleged to be only driver of the said truck. Further, it is contended that, in fact, the recovery was effected from someone else and the same has been foisted upon the petitioner. Learned counsel for the petitioner has pointed out that the memo of recovery is dated 27.7.2017, whereas, the FIR in question is registered on 27.8.2017. Still further, even in the FSL report, it is recorded that the sample received was dated of 4.8.2017, i.e, of a date before the registration of the FIR. Learned counsel for the petitioner has further pointed out the defect in the consent recorded by the Investigating Officer; as to whether the petitioner would like his truck to be searched by a gazetted Officer. The consent memo also shows the date of recovery to be dated 27.7.2017. Hence, it is submitted that the

petitioner has been involved only in a totally concocted case. Still further, it is contended that the petitioner is in custody since 27.8.2017. The evidence is already going on. However, out of 15 witnesses, only two witnesses have been examined so far. It is also submitted that there is no other case against the petitioner.

On the other hand, learned State counsel, being instructed by SI Balwinder Singh, submits that the dates pointed out by the learned counsel for the petitioner appear to be clerical mistakes. It is further submitted that the petitioner was apprehended with heavy recovery of poppy husk. However, it is not disputed that the petitioner is not the owner of the truck and that he was only a driver thereon. It is also not disputed that there is no other case against the petitioner and that only two witnesses have been examined; despite the fact that the petitioner has been in custody since 27.8.2017.

In view of the above facts and circumstances, but without expressing any further opinion on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial subject to his furnishing bail bonds/surety to the satisfaction of the Trial Court/Duty Magistrate, concerned.

05.03.2019

rajeev

**(RAJBIR SEHRAWAT)
JUDGE****Whether speaking/reasoned****Yes/No****Whether reportable****Yes/No**