

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

CRM-M-19487 of 2019
Date of Decision:11.09.2019

Jaswinder @ Jagga

....Petitioner

Versus

State of Haryana

...Respondent

CORAM:HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. B.S. Saroha, Advocate
for the petitioner.

Mr. Arun Beniwal, DAG, Haryana.

MAHABIR SINGH SINDHU, J.(Oral)

Present petition has been filed under Section 439 Cr.P.C.
seeking bail pending trial in case FIR No. 1049 dated 04.11.2018,
under Section 15 of the Narcotic Drugs and Psychotropic Substances
Act, 1985 registered at Police Station Thanesar, District Kurukshetra.

Brief facts of the case are that on 04.11.2018 ASI Daljit
Singh alongwith other police officials was present near Wisdom
World School, Sector 8, Kurukshetra. In the meanwhile, a secret
informer met ASI Daljit Singh and supplied an information that
petitioner-Jaswinder @ Jagga, who is the driver of a truck bearing
registration No. HR63C-7580 was indulged in the business of narcotic
substance and today also he has brought poppy husk from Rajasthan

and will supply to one person on G.T. Road via 100 foot road. Believing the secret informer truthful, a notice under Section 42 of the NDPS, Act was prepared and sent to DSP Headquarter Raj Singh through Constable Manoj Kumar. Thereafter, ASI Daljit Singh along with other police officials in Government Official Vehicle reached Gym Khana Club T-Point on 100 Foot Road and laid a Nakabandi. After some time a truck bearing registration No. HR63C-7580 colour white was seen coming from the side of Circuit House Chowk, thereafter ASI with the help of other police officials stopped the said truck. A notice under Section 50 of the Act was served upon the petitioner for seeking option to be searched and get his truck searched in the presence of a Magistrate or gazetted officer and he replied to be get searched in the presence of gazetted officer. Thereafter, ASI Daljit Singh telephonically called Raj Singh DSP. After sometime DSP alongwith his staff and constable Manoj Kumar reached the spot. Then DSP directed ASI Daljit Singh to take the personal search and the search of the truck. Then ASI made personal search of both the accused, but no contraband was recovered, thereafter, ASI Daljit Singh checked the cabin of truck, wherein in two plastic bags one white and second yellow colour, were recovered under the blanket lying on the long seat behind the driver seat. On search of plastics bag 21 kg and 30 kg's i.e. total 51 Kg of poppy husk was recovered.

It is contended by learned counsel for the petitioner that the petitioner has been falsely implicated in the present case and he was granted the interim bail till receipt of FSL Report by this Court

on 19.04.2019. Also argued that the alleged contraband recovered from the petitioner is marginally above the commercial quantity and there is no other criminal case pending against him. Further argued that petitioner is in custody since 04.11.2018 and charges have already been framed and thus trial is likely to take long time, hence he be enlarged on bail.

On the other hand, learned State counsel has opposed the bail on the ground that the alleged contraband recovered from the truck in question driven by the petitioner was commercial in nature. Further argued that after investigation in the matter report under Section 173 Cr.P.C. was submitted and charges have also been framed and now the case is fixed for prosecution evidence. Hence, he prays for dismissal of the bail.

Heard learned counsel for the parties and perused the paper book.

Undisputedly, the petitioner is the driver of the truck and the alleged contraband weighing 51 Kg of poppy husk recovered from the petitioner is commercial in nature. FSL report is against the petitioner. After investigation in the matter report under Section 173 Cr.P.C. was submitted and charges have also been framed and now the case is fixed for prosecution evidence. In view of the provisions of Section 37 of the NDPS, Act there is a bar to grant bail in such like case.

Keeping in view the aforesaid facts, the petitioner is not entitled to the concession of bail pending trial. Hence, the present

petition is hereby dismissed.

The above observations, may not be construed as an expression of opinion on merits of the case.

[MAHABIR SINGH SINDHU]
JUDGE

September 11, 2019
rashmi

Whether speaking/reasoned	yes/no
Whether reportable?	yes/no