

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

**CRM-M No.6222 of 2020 (O&M)
Date of Decision: 28.07.2020**

Amrik Singh

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

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

Mr. Pardeep Prakash Chahar, DAG, Haryana
for the respondent/State.

MAHABIR SINGH SINDHU, J. (Oral)

Fourth petition has been filed under Section 439 of the Code of Criminal Procedure for grant of bail pending trial to the petitioner in case FIR No.405 dated 29.11.2018, under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1984 (*sic-1985*) (*for short 'NDPS Act'*), registered at Police Station Ladwa, District Kurukshetra.

As per the prosecution case, on 29.11.2018, police party led by Inspector Parteek Kumar, In-charge, Narcotic Cell, Kurukshetra was on checking near Pipli-Ladwa Road, T-Point, Village Niwarsi. At that time, Inspector Parteek Kumar received a secret information that Amrik Singh (petitioner), who is driver of Truck bearing registration No.HR-65-A-8154, coming from Pipli Side and going towards Haridwar, has brought *Poppy Straw* from Rajasthan. On receipt of information, Notice under Section 42 of the NDPS Act was prepared and sent to DSP, Ladwa through Constable Mandeep Singh. Thereafter, a *Naka* was laid on the disclosed place and the

passersby were tried to join the investigation, but refused. After about 30 minutes, aforesaid Truck was seen coming from the Pipli side and got stopped by the Inspector. The driver of the Truck disclosed his name as Amrik Singh son of Puran Singh (petitioner) and a Notice under Section 50 of the NDPS Act was prepared and served upon him. Sh. Ramesh Kumar Gulia, DSP was informed about the case and requested to come on the spot. In his presence, search of the Truck was conducted and *Poppy Straw*, weighing 60 Kg. in two plastic *Kattas* (bags), was recovered from the Cabin of Truck.

It is contended by learned Counsel for the petitioner that petitioner is in custody since 07.02.2019 and there is no other criminal case pending against him. Also contended that petitioner is not the owner of the Truck in question and the alleged recovery is marginally higher than the commercial quantity. Further contended that due to Covid situation, there is no progress in the trial, thus, petitioner be released on bail pending trial.

On the other hand, learned State Counsel, on instructions, has opposed the bail and submitted that recovery was effected in the presence of a Gazetted Officer and that too, commercial in nature. Also submitted that FSL report has also been received, thus, petitioner does not deserve the concession of bail.

Heard learned Counsel for the parties and perused the paper-book.

Concededly, the recovery is alleged to have been effected from the petitioner in the presence of Deputy Superintendent of Police i.e.

Gazetted Officer. Even a Notice under Section 42 of the NDPS Act was also sent to the DSP immediately after receipt of the secret information. Allegations are that petitioner is the sole accused as no other person was present with him and he was driving the Truck at the time of occurrence.

Undisputedly, FSL report has also been received, which indicates that the contraband is *Poppy Straw*. No doubt, petitioner is in custody since 07.02.2019 and there is no progress in the trial, but in view of the specific bar under Section 37 of the NDPS Act, this Court has no option except to dismiss the present petition.

Ordered accordingly.

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

July 28, 2020
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No