

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM M-11409 of 2020

Date of Decision: August 11, 2020

Sandeep

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU.

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Present:- Mr.D.S. Virk, Advocate for the petitioner.

Mr. P.P. Chahar, DAG, Haryana.

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Present second petition has been filed under Section 439 of Cr.P.C. for grant of bail pending trial to the petitioner in case FIR No.1233 dated 23.12.2018 under Section 15 of the NDPS Act and Section 420 IPC (added lateron), registered at Police Station Sadar Hisar, District Hisar.

As per case of the prosecution, when police party was patrolling in search of crime, in the meantime, a special informer came and informed that petitioner is indulged in selling of intoxicant substance and today he is in possession of the same. In case, an immediate raid is conducted, he could be apprehended along with the contraband. ASI disclosed the information to co-employee and notice under Section 42 of the NDPS Act was prepared. Higher police official (s) were also intimated on the telephone and DSP was requested to come on the spot. Intimation was also sent to MHC Police Station Sadar Hisar, with regard to the information.

Complainant along with other police officials reached there. After sometime, one person came outside from his house; placed 5 plastic bags in front of the door and started waiting for conveyance. Immediately, the police party apprehended the suspect, who disclosed his name as Sandeep (petitioner). Recovery of 65 kg of poppy husk was effected from the petitioner after complying with the provisions of Section 50 of the Act in presence of DSP, Hisar.

Contends that recovery from the petitioner is marginally higher than the commercial quantity; he is in custody for the last more than 1 ½ years and due to prevailing situation, there is no progress in the trial. Also contends that a Coordinate Bench in CRM M-39881 of 2016 (Gurdev Singh Dev Vs. State of Haryana), decided on 15.11.2016 (P-4) granted regular bail, where recovery was 70 kg of poppy husk.

On the other hand, learned State counsel opposed the prayer and submitted that petitioner is facing another case under NDPS Act in the State of Rajasthan. Also submitted that recovery is commercial in nature and petitioner does not deserve the concession of bail.

Heard both sides and perused the paper-book.

Concededly, the allegations against the petitioner are that 65 kg. of poppy husk contained in 5 bags was recovered from him and that is commercial in nature. There is no dispute that petitioner is facing trial in another case under NDPS Act in the State of Rajasthan, thus not having the genuine credentials.

No doubt, on account of Covid-19, trial is being delayed, but neither prosecution; nor learned trial Court can be held responsible for the

same and thus, mere delay in such like cases could not be a ground for bail in view of the embargo contained under Section 37 of the NDPS Act.

Although, learned counsel for the petitioner has relied upon order dated 15.11.2016 passed by the Coordinate Bench, where the accused was granted bail in a case involving recovery of 70 kg of poppy husk, but it transpires that provisions of Section 37 of the NDPS Act were not noticed in that case, thus, the same is not helpful to the petitioner in any manner.

In view of the above, this Court has no option except to dismiss the petition.

Ordered accordingly.

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

August 11, 2020
sanjay

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/ reasoned:	Yes/ No.
Whether Reportable:	Yes/No.