

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

CRM-M-13254-2020 (O&M)

Date of decision: 09.07.2020

Amrik Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. S.K. Yadav, Advocate for the petitioner.

Mr. Apoorv Garg, DAG, Haryana.

H.S. MADAAN, J. (Oral)

Case taken up through video conferencing.

This petition for regular bail has been filed by petitioner Amrik Singh, aged about 65 years, an accused in FIR No.109 dated 14.04.2020, for an offence under Section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the Act'), registered with Police Station Sadar Jind.

Briefly stated facts of the case as per prosecution version are that on 14.04.2020 on receipt of secret information, a police party from Police Station Sadar Jind conducted a raid at agricultural land of petitioner/accused Amrik Singh situated near his house at Village Birbadaban, District Jind and it was found that poppy plants had been planted there; those were uprooted and on being weighed came out to be 17 kgs and 400 gms of poppy plants. Those were taken into police

possession. Petitioner was arrested in this case for cultivating poppy plants in his fields without any permission. Formal FIR was registered in the matter.

The petitioner had moved two petitions for regular bail before Court of Sessions at Jind, however, both the petitions were dismissed by Addl. Sessions Judge, Jind. As such, he has approached this Court praying for grant of similar relief, which request is being opposed by the State counsel.

I have heard learned counsel for the parties besides going through the record.

Learned Addl. Sessions Judge, Jind in her order dated 19.05.2020, while dismissing the petition for regular bail so filed by the petitioner has observed that the recovered poppy plants amounts to commercial quantity. Counsel for the petitioner has placed on record copy of judgment passed by a Co-ordinate Bench of this Court titled 'Gurcharan Singh Vs. State of Haryana' in CRM-M-15417-2015 dated 05.10.2016, wherein it was observed that opium poppy necessarily falls within the ambit of non-commercial quantity and bar of Section 37 of the Act would not apply.

Learned State counsel was granted time at his request to go through the judgment and cite any law to the contrary, if it was there but he has fairly conceded that he could not lay his hand on any judgment where a contrary view in the matter might have been taken. It being so, bar of Section 37 of the Act does not come into play in this case. Now coming to merits of the case, it is contended on behalf of learned counsel

for the petitioner that there are several khewatdars in the agricultural land in question and the petitioner has been wrongly held to be responsible sowing the poppy plants. He is a poor agriculturist, aged about 65 years and only earning member in the family. Therefore, he be granted regular bail.

Though, this request is being opposed by the State counsel but I find that keeping in view the facts and circumstances of the case, the petition for grant of regular bail deserves to be accepted. Therefore, the same is allowed. The petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of trial Court/CJM/Duty Magistrate, Jind, subject to the following conditions:-

- (i) he shall appear in the Court on each and every date of hearing;
- (ii) he shall not give any threat or intimidation to the prosecution witnesses; and
- (iii) he shall not leave India without prior permission of the Court and shall surrender his passport, if he has got one, otherwise to furnish affidavit in that regard.

09.07.2020

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(H.S. MADAAN)
JUDGE

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