

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**CRM-M-15471-2020**

DATE OF DECISION: SEPTEMBER 30, 2020

PAWAN

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

**CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.**

PRESENT: MR. SUNNY BHARDWAJ, ADVOCATE  
FOR THE PETITIONER.

KANWAR SANJIV KUMAR, AAG, HARYANA.

**MANOJ BAJAJ, J.(ORAL)**

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No.116 dated 2.5.2019, under Section 15 NDPS Act, 1985, Police Station Badli, District Jhajjar. The petitioner is in custody since his arrest on 2.5.2019.

As per the allegations, when ASI Rajesh alongwith other police officials was on patrolling duty at bus stop, Jahangirpur, a secret informer informed him that Pawan son of Ram Chander, Subhash son of Dharam Singh and Balkar @ Baljeet @ Tau son of Jeet Singh have indulged in smuggling of narcotic substances, and all of them would be coming to Badli from Gurgaon in Container No.HR38-V-4798 with huge quantity of poppy husk and upon nakabandi below KMP Flyover, they can be caught with the contraband. Acting upon the said information, nakabandi was conducted below the KMP Flyover and the said truck was apprehended alongwith the above persons. Personal search of the persons and the vehicle was

conducted in the presence of the DSP and from the back side of the container, 2 gunny bags and 3 plastic bags were found. On opening the same, 54 kgs. of poppy husk was recovered. On these broad allegations, the FIR was registered.

Learned counsel for the petitioner contends that the recovery of 54 kgs. of poppy husk was made from the vehicle which was driven by co-accused Subhash son of Dharam Singh and the petitioner was sitting in the said vehicle. According to him, it would be seriously debatable if the contraband was found to be in conscious possession of the petitioner as the vehicle was containing other material as well. He further submits that the recovered contraband is marginally above the non-commercial quantity and therefore, the further custody of the petitioner may not be necessary as the investigation of the case is complete. He prays that the petitioner be released on regular bail during the pendency of the trial.

On the other hand, learned counsel for the State assisted by HC Ashok Kumar has opposed the aforesaid prayer. He has contended that the recovered contraband falls in commercial quantity. He has further invited the attention of the Court to the reply filed by way of affidavit of Ashok Kumar, HPS/Deputy Superintendent of Police, Badli, District Jhajjar to contend that the petitioner has suffered a confessional statement before the police regarding his guilt. However, it is not disputed by him that after framing of charges on 1.10.2019, only one witness has been examined so far, out of total fifteen witnesses.

After hearing the learned counsel for the parties this Court is of the opinion that the investigation of the case is complete, but trial of the case

is likely to consume considerable time in the wake of outbreak of global pandemic, namely, COVID-19 in the region as certain restrictions have been imposed by State Government and District Administration in order to curb its spread, therefore, further custody of the petitioner may not be justified. The petitioner is presently confined in judicial custody and is not required for any useful purpose.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

September 30, 2020  
Gulati

**(MANOJ BAJAJ)**  
**JUDGE**

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No