

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

CRM-M-17345-2020 (O&M)

Date of decision: 09.07.2020

Harminster Singh @ Bajwa @ Sarpanch

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Mr. Arjun Veer Sharma, Advocate for the petitioner.

Mr. Dhruv Dayal, Sr. DAG, Punjab.

H.S. MADAAN, J. (Oral)

Case taken up through video conferencing.

This is a second petition for grant of regular bail filed by petitioner Harminster Singh @ Bajwa @ Sarpanch, aged about 50 years, an accused in FIR No.115 dated 04.10.2018, for an offence under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the Act'), registered with Police Station Sadar, Kapurthala.

Briefly stated facts of the case as per prosecution story are that on 04.10.2018, a police party from Police Station Sadar, Kapurthala headed by ASI Harjit Singh was present in the area of Village Rajapur turning in connection with checking of suspects where a secret information was received by ASI Harjit Singh that petitioner Harminster Singh @ Bajwa @ Sarpanch was engaged in drug trafficking and on that day, he was carrying huge quantity of poppy husk coming to Kapurthala

from Kala Sanghia in Mahindra Xylo white colour having registration No.JK02-AU-3309 and if a picket was laid, he could be caught red handed. The police party accordingly laid picket at Sukhmani bridge; in the meanwhile, Manpreet Singh Dhillon, DSP arrived there; during the course of checking, a vehicle was seen coming from Kala Sanghia side which was signaled to stop with the help of torch light. On seeing the police party, the driver stopped the vehicle and tried to run away but he was apprehended. On being enquired, he disclosed his name as Harminder Singh @ Bajwa @ Sarpanch son of Gopal Singh. The vehicle was found to have 55 kgs of poppy husk placed in the diggi, which was taken into police possession. Accused was arrested in this case. Formal FIR was registered.

Accused had moved a petition for regular bail before Judge, Special Court, Kapurthala, however, the same was dismissed, vide order dated 07.03.2019. As such, he has knocked at the door of this Court with similar relief, which request is being opposed by State counsel.

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

The poppy husk said to have been recovered from the possession of the accused amounts to commercial quantity. Section 37 of the Act clearly provides that no person accused of an offence involving commercial quantity shall be released on bail or on his own bond unless the Public Prosecutor has been given an opportunity to oppose the application for such release and if, it be so, the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such

offence and that he is not likely to commit any offence while on bail. There is absolutely no reason to record such satisfaction as is required in terms of Section 37 (1)(b) of the act. The petitioner is said to be involved in another similar case under Sections 15 and 29 of the Act bearing FIR No.201 dated 29.12.2019, registered with Police Station Bhogpur. Under the circumstances, he is not entitled to regular bail. There is reasonable apprehension of his absconding and even trying to tamper with the prosecution evidence, if released on bail and he may take to drug trafficking again.

Learned counsel for the petitioner has raised certain contentions, submitting that there has been violation of Section 42 of the Act, guidelines laid down by the Apex Court in Mohan Lal Vs. State of Punjab and Varinder Kumar Vs. State of Himachal Pradesh have not been complied with; the weighing of the contraband has not been carried out properly. These may be of some relevance during the trial while determining the guilt of the accused but not for the purpose of grant of bail where the yardstick to be used is quite different.

Last of all, learned counsel for the petitioner argued that on account of Covid-19 pandemic, the trial is not likely to be concluded soon, as such, bail be granted to the petitioner. I am not convinced by this contention. The Courts have started functioning and hopefully normal working would be there in near future. The persons indulging in drug trafficking ruining the lives of youths of our State cannot be allowed concession of regular bail for such like reason. In view of bar of Section 37 of the Act, he being involved in another case under the Act and

finding no merit in the instant petition, the same stands dismissed.

09.07.2020

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(H.S. MADAAN)
JUDGE

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