

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

CRM-M No.17663 of 2020 (O&M)

Date of Decision: 28.10.2020

Balkar Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Amit Kumar Walia, Advocate for the petitioner.

Mr. H.S.Multani, AAG, Punjab for the respondent.

MAHABIR SINGH SINDHU, J. (Oral)

Present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of bail pending trial to the petitioner in FIR No.59 dated 20.04.2020, under Sections 15, 25, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Longowal, District Sangrur.

As per prosecution case, on 20.04.2020 at about 04:15 PM, ASI Ram Singh received secret information that Lakhwinder Singh @ Lakha and Sukhdeep Singh @ Sabhi, who are habitual of selling poppy husk, which was supplied to them by Gurpreet Singh. Balkar Singh @ Gorkha (petitioner) also indulged in the said business. During *Nakabandi*, Sukhdeep Singh @ Sabhi was nabbed while transporting 175 Kgs. 500 grams of *Poppy Husk* in Bolero

Maxi Plus Truck bearing registration No.PB-03AT-4650, who on interrogation disclosed that he along with Lakhwinder Singh used to sell the *Poppy Husk*, which was supplied by Gurpreet Singh. Thereafter, during investigation, on 21.04.2020, 27 Kg. *Poppy Husk* was recovered from the house of petitioner.

Contends that petitioner is in custody since 21.04.2020; alleged recovery effected from him is 27 Kg. *Poppy Husk*, which would be less than commercial in nature in view of the Schedule appended with the Act. Also contends that there is no other criminal case pending against the petitioner and after investigation, challan has already been presented.

The above factual position is duly acknowledged by learned State Counsel, on instructions from ASI Harchetan Singh.

Heard both sides and perused the paper-book.

Concededly, the alleged recovery of contraband is less than commercial, therefore, the rigor of Section 37 of the NDPS Act is not attracted in this case. Investigation qua petitioner is already over and trial will take sufficient long time, thus, no useful purpose would be served by keeping the petitioner behind bars any more. Consequently, the present petition is allowed. Petitioner be admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

Petitioner shall fully co-operate with learned trial Court without seeking any unnecessary adjournments.

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

It is clarified that in case there is any misuse of concession of bail on the part of the petitioner, State of Punjab would be at liberty to move an appropriate application for recalling of this order.

October 28th, 2020
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

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