

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM M-20401 of 2020

Date of Decision: August 10, 2020

Hardeep Singh @ Deepa

.....Petitioner

Vs.

State of Punjab

.....Respondent

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

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Present:- Mr.P.S. Dhaliwal, Advocate for the petitioner.

Mr. L.S. Sofat, AAG, Punjab.

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Present petition has been filed under Section 439 of Cr.P.C. for grant of bail pending trial to the petitioner in case FIR No.0096 dated 26.06.2019 under Section 15 of the NDPS Act, registered at Police Station Baghapurana, District Moga.

As per case of the prosecution, on the basis of a secret information, truck bearing registration No.PB-46-M-8917 was intercepted and that led to the recovery of 800 kg of poppy husk from the petitioner as well as his co-accused Jasbir Singh @ Beera; whereas third accused namely Gajjan Singh, who is stated to be the owner of the Truck, fled away from the spot.

It is contended by learned counsel for the petitioner that as per allegations of the prosecution, he was working only as a Cleaner, but no recovery had been effected from him. Further contended that co-accused

Gajjan Singh has already been granted the concession of bail pending trial by a Coordinate Bench of this in CRM-M 54911 of 2019, on 26.06.2020 (P-2) and petitioner is in custody since 26.06.2019; there is no progress in the trial, thus his further incarceration would not serve any purpose

On the other hand, learned State counsel opposed the prayer and submitted that recovery in the present case is extremely on the higher side; petitioner and co-accused, namely, Jasbir Singh @ Beera were apprehended along with the contraband on the spot. Also contends that from third accused, namely, Gajjan Singh, neither any contraband was recovered; nor during investigation, he was found to be the owner of the truck in question, therefore, petitioner cannot claim parity with him.

Heard both sides and perused the paper-book.

As per the case of the prosecution, above FIR was registered on the basis of secret information which was reduced into writing and intimation regarding the same was sent to higher official(s) as well as to the Illaqa Magistrate. Upon interception of the truck bearing registration No.PB-46-M-8917, recovery of 800 kg. of poppy husk contained in 30 bags (20 bags x 20 kg and 10 bags x 40 kg each) was effected from the petitioner along with his co-accused Jasbir Singh @ Beera. Both the accused, Cleaner and Driver, respectively, were apprehended on the spot, along with the contraband, thus, the complicity of the petitioner is well apparent.

No doubt, the third accused, namely, Gajjan Singh has been granted the concession of bail pending trial by a Coordinate Bench of this Court, but that is not helpful for the reasons---

- a) He was not apprehended on the spot;
- b) No recovery had been effected from him; and
- c) Bail order dated 26.06.2020 (P-2) reveals that one Satnam Singh was found to be the owner of the Truck in question and not Gajjan Singh.

Since the recovery in the present case is a big haul of 800 kg poppy husk contained in 30 bags, thus, keeping in view the embargo of Section 37 of the NDPS Act, this Court is not inclined to grant bail pending trial to the petitioner.

Consequently, the petition is dismissed

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

August 10, 2020
sanjay

(MAHABIR SINGH SINDHU)
JUDGE

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