

CRM-M-24639-2020 (O&M)

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

**CRM-M-24639-2020 (O&M).
Decided on: September 01, 2020.**

Ranjit Singh

.. Petitioner

VERSUS

State of Punjab

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

**PRESENT Mr.Sanjeev Kumar Banga, Advocate,
for the petitioner.**

Mr.M.S.Nagra, AAG. Punjab..

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 439 of the Code of Criminal Procedure, seeking regular bail in FIR No.40 dated 21.04.2019, under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station, Sadar Nawanshahr, District S.B.S. Nagar.

Learned counsel for the petitioner has submitted that although the petitioner was named in the FIR and alleged recovery was

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made from the petitioner but the recovery which was made from the petitioner was only of 70 kgs. of poppy husk which is little higher than the commercial quantity. He has submitted that in the *Farad Consent Memo*, the name of the petitioner was added by writing and not by typing. He has drawn the attention of this Court to the vernacular of *Farad Consent Memo* (Annexure P-2). However, in Annexure P-3 which is Farad regarding recovery of Dode Chura Post, the name of the petitioner was typed one and therefore, has prayed that the petitioner has been wrongly roped up in the present case and is entitled to be released on bail.

On the other hand, learned State counsel has submitted that in the present case the petitioner was apprehended on the spot while driving the vehicle and 70 kgs. of poppy husk was recovered from him. He has further submitted that all the provisions of the NDPS Act, have been complied with and that the recovery being commercial under the provisions of the Act, the petitioner is not entitled for the grant of bail in view of the bar contained under Section 37 of the NDPS Act.

I have heard the learned counsel for the petitioner as well as the learned State counsel through video conference.

In the present case the alleged recovery is 70 kgs. of poppy husk which is a “commercial quantity” and the petitioner was apprehended on the spot on 21.4.2019 and there is merit in the argument raised by the learned State counsel that under the provisions of Section 37 of the NDPS Act, the grant of bail to the petitioner is barred subject to the exceptions which contained in Section 37 of the NDPS Act.

Recently, Hon'ble the Supreme Court in *State of Kerala etc. Vs. Rajesh etc., 2020 AIR SC 731*, has held that unless the twin conditions contained in Section 37 of the NDPS Act, are satisfied, the bar contained in Section 37 of the NDPS Act, would operate. In the present case, nothing could be shown from the record or from the arguments of the learned counsel for the petitioner that reasonable grounds exist for believing that he is not guilty of such an offence and therefore, the second condition contained in Section 37 of the NDPS Act, is not satisfied.

In view of above, I do not find any merit in the present petition and the same is hereby dismissed.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant only for the purpose of decision of present petition.

September 01, 2020.
raj arora

JASGURPREET SINGH PURI)
JUDGE

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No