

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

CRM-M No.23826 of 2020 (O&M)

Date of Decision: 28.10.2020

Kapoor Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. Sumeet Puri, Advocate for the petitioner.

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

MAHABIR SINGH SINDHU, J. (Oral)

Second 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 (son of petitioner) and Sukhdeep Singh @ Sabhi, who are habitual of selling the *poppy husk*, which was supplied to them by Gurpreet Singh. Balkar Singh @ Gorkha 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.

Contends that petitioner is in custody since 29.04.2020 and on the basis of disclosure made by co-accused Sukhdeep Singh @ Sabhi to the effect that son of the petitioner, namely, Lakhwinder Singh @ Lakha is an accused in this case and in his absence, petitioner used to sell the *poppy husk*. Also contends that petitioner is more than 68 years of age and he has been falsely implicated. Further contends that petitioner is having clear antecedents as he never faced any criminal case.

Learned State Counsel, on instructions from ASI Harchetan Singh, has acknowledged the factum of age of the petitioner as well as non-pendency of any other criminal case. He has also acknowledged that during investigation, no recovery or incriminating material was recovered from the petitioner to connect him with the commission of crime.

Heard learned Counsel for the parties and perused the paper-book.

Since neither any recovery; nor any incriminating material was recovered from the petitioner to connect him with the commission of crime in this case, thus, at this stage for the purpose of bail, this Court is satisfied that in terms of twin-test laid down under Section 37 of the NDPS Act, he is not likely to prove guilty. 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 the 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

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>