

BALJINDER SINGH AND ANR.

...PETITIONERS

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Anuj Sood, Advocate
for the petitioner.

Mr. Davinderbir Singh, DAG, Punjab.

*(The case has been taken up through video conferencing on
account of Covid-19 Pandemic)*

VIVEK PURI, J. (ORAL)

Briefly, the FIR bearing No. 84 dated 09.07.2020 under Section 15 of Narcotics Drugs and Psychotropic Substances At, 1985, at Police Station Bhadson, District Patiala has been registered in pursuance of the recovery of 04 bags each weighing 16 kg (64 Kg) of Poppy Husk from the vehicle being driven by petitioner No.1. Petitioner No.2 and Amrik Singh were also travelling in a car.

It has been contended by the learned counsel for the petitioner that three persons were travelling in a car and in such circumstances, the quantity of contraband if divided amongst them falls in the category of less than commercial quantity.

On the contrary, learned State counsel has vehemently opposed the bail application and has argued that all the three accused were travelling in a car and the recovery effected from them has to be clubbed for the purpose of working out the quantity of the contraband. In the instant case, the recovery of Poppy Husk is to the extent of 64 Kg .

21.08.2020 rendered in CRM-M-13215-2020, titled as Rajo Vs. State of Haryana, the question was as to whether the quantity (56Kg) of poppy straw recovered from three sisters can be clubbed together for deciding whether or not their case involves the commercial quantity, attracting Section 37 of the NDPS Act. It has been held in the aforesaid decision that it was not open to the petitioners to claim that they should be held to be in “conscious possession” of only the specified quantity that each of them was carrying.

The aggregate amount of the contraband being carried by both the accused has to be considered for determining the quantity and the same cannot be allowed to be segregated. It is pertinent to note that the petitioners along with the co-accused were travelling in a car wherein 4 bags of Poppy husk were being carried. Consequently, it cannot be said that the quantity of contraband recovered from the possession of the petitioners was less than commercial quantity.

In the instant case, the stringent provisions of Section 37 of the NDPS Act come to play. There is nothing to suggest that the petitioners have not committed the offence and are not likely to commit the offence while on bail.

Keeping in view, the entire circumstances of the case, no justified ground is made out to extend the concession of bail to the petitioners.

For the aforesaid reasons, the present petition for regular bail is dismissed.

06.11.2020
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(VIVEK PURI)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No