

220 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-35491-2020
Date of Decision: 06.11.2020

Mewa Singh

... Petitioner

v/s

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. N.S.Sidhu, Advocate for the petitioner.
Mr. Davinderbir Singh, DAG Punjab.
*(The case has been taken up through video conferencing on
account of Covid-19 pandemic)*

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VIVEK PURI, J. (ORAL)

The petitioner has prayed for grant of regular bail in case FIR No.53 dated 13.3.2020, under Section 15/18 NDPS Act, 1985 registered at Police Station Koom Kalan, District Ludhiana.

Briefly, the FIR has been registered in pursuance of the receipt of secret information against the petitioner to the effect that he had cultivated poppy plants in the land in front of his house kept for growing vegetables. Accordingly, a raid was conducted and 20 Kg 500 Gms green poppy plants have been recovered.

Learned counsel for the petitioner has placed reliance upon **Gurcharan Singh Vs. State of Haryana, 2016(4) Law Herald 3477 (Punjab & Haryana)** to argue that in the similar circumstances with regard to the recovery of 20 Kg of opium plant, bail was granted to the petitioner. It has been further stated that report of FSL is silent with regard to the morphine being present in the contents of the parcel, quantity of green poppy plant recovered from the possession of the petitioner falls in the category of less than commercial quantity. There is nothing to suggest that petitioner is the owner of the property where the plants were allegedly grown, the arrest of the

petitioner was effected on 26.8.2020, investigation of the case is complete and challan has already been presented in the Court.

Learned State counsel, on instructions from ASI Harmeet Singh, Police Station Koom Kalan has not assailed the factual aspect of the matter but has pointed out that as per the statements of the co-villagers, the petitioner was in occupation of the land from where recovery has been effected.

Be that as it may, it is significant to note that the quantity of green poppy plant allegedly recovered from the possession of the petitioner falls in the category of less than commercial quantity. As such, stringent provisions of section 37 of the NDPS Act do not come into play. Report of FSL is silent with regard to the presence of morphine in the contents of the sample, investigation of the case is complete and trial is likely to take some time. Furthermore, it becomes debatable as to whether petitioner was the owner/occupier of the land from where green poppy plants have been recovered. Custody certificate further indicates that petitioner is not involved in any other case.

In such circumstances, no fruitful purpose would be served by detaining the petitioner in custody. Therefore, without making any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

The petition is allowed.

(VIVEK PURI)
JUDGE

06.11.2020

Janki

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