

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

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**CRM-M-6873-2021 (O&M)
Date of Decision: 20.08.2021**

Dalip Singh ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Vikas Bishnoi, Advocate, for the petitioner.

Mr. Deepak Grewal, DAG, Haryana,
assisted by SI Raja Ram.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No.173 dated 13.05.2020 at Police Station Sadar Fatehabad, District Fatehabad, under Sections 18 & 27A of the NDPS Act; under Sections 188 & 269 IPC and under Section 51-B of the Disaster Management Act.
2. As per the case of the prosecution, on 13.05.2020, when the police party was present at T-point Bhirdana Road for the purpose of checking and had placed barricades, then one person was noticed coming from the side of Village Jhalniya on a motorcycle and who upon noticing the police party turned back the motorcycle, but was apprehended by the police on the basis of suspicion. Upon enquiry, the said person disclosed his name as Ramesh. The search of polythene bag led to recovery of 1 Kg. 45 grams of opium. During

interrogation, he suffered a disclosure statement to the effect that the said contraband had been handed over to him by Dalip Singh (petitioner) for the purpose of selling the same to customers at a higher rate and that it had been agreed that they would share the profits in the ratio of 60:40. Pursuant to said disclosure statement, the petitioner was also arrested on the same day itself i.e. on 13.05.2020 and who upon interrogation admitted his involvement and also got recovered another 2 Kgs. 50 grams of opium from his house.

3. Learned counsel for the petitioner has submitted that he has falsely been implicated in the present case and that no sanctity can be attached to the recovery stated to have been effected on the basis of a disclosure statement made by the petitioner himself as he had been taken into custody by the police when his disclosure statement was allegedly recorded. Learned counsel has further submitted that in any case the recovered contraband would fall in the category of 'non commercial' quantity and as such, fetters of Section 37 would not be attracted and the petitioner deserves to be released on bail especially since he has been behind bars since the last about 1 year and 3 months and trial is not making any headway.
4. Opposing the petition, learned State counsel has submitted that since the petitioner came to be specifically named by the co-accused from whom also opium was recovered and the petitioner pursuant to his own disclosure statement got recovered 2 Kgs. 50

grams opium, no case for grant of bail is made out. Learned State counsel has, however, informed that the petitioner has been behind bars since the last about 1 year and 3 months. It has also been informed that although charges have been framed, but till date not even a single PW out of cited 21 PWs has been examined. Learned State counsel has also submitted that since the petitioner happens to be convicted in two other cases, releasing him on bail at this stage would not be in the interest of the society.

5. I have considered rival submissions addressed before this Court.
6. Having regard to the fact that it is a case of recovery of contraband pursuant to the disclosure statement made by the petitioner himself and that in any case, the contraband recovered at his instance i.e. 2 Kgs. 50 grams would fall in the intermediate category of the contraband i.e. 'non commercial' quantity and while also noticing that the petitioner has been behind bars since the last about 1 year and 3 months and the conclusion of trial will take some time as none of the cited 21 PWs has been examined so far, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

20.08.2021

Vimal

(GURVINDER SINGH GILL)
JUDGE

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