

CRM-M-31659 of 2021
Date of Decision: 20.09.2021

Jiwan Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURIPresent: Mr. Lupil Gupta, Advocate
for the petitioner.

Mr. Randhir Singh Thind, DAG, Punjab.

Through Video Conferencing**JASGURPREET SINGH PURI, J.(ORAL)**

The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.55 of 01.06.2021, under Sections 15(c)/61/85 of Narcotic Drugs and Psychotropic Substances Act, 1985 registered at P.S. City Rampura, District Bathinda.

As per the FIR, the police party who were checking suspicious persons from Bathinda to Rampura, one truck was seen parked on the left side of slip road with its front-side facing the Stelco Factory and three persons who were standing on the body of the truck were searching for something amid the material loaded in the truck. Suddenly, after seeing the police party they were perplexed and then on having suspicion, they got stopped the car and apprehended these three persons along with aforementioned truck with the help of the co-officials and enquired about their

names and address. The first person told his name as Jeewan Kumar (petitioner) son of Krishan Lal, resident of Dasmesh Nagar, Rampura, District Bathinda, the second person told his name Raj Singh son of Jarnail Singh, resident of Romana Ajit Singh, District Faridkot and the third person told his name as Kuldeep Singh son of Jagraj Singh, resident of Romana Ajit Singh, District Faridkot. Thereafter, the police called the competent officer to take action under the NDPS Act and upon following the procedure, 100 kgs of poppy husk was confiscated from the truck.

Learned counsel for the petitioner has submitted that although the petitioner was named in the FIR but he has been falsely implicated in the present case and is in custody since 01.06.2021 and is not involved in any other case and therefore, he may be considered for grant of concession of regular bail.

On the other hand, Mr. Randhir Singh Thind, learned Deputy Advocate General, Punjab has submitted that the petitioner along with two other persons were caught on the spot while they were in a truck from which 100 kgs. of poppy husk was confiscated, which is of a commercial quantity. He further submitted that FSL report has been received and the confiscated quantity of poppy husk weighs 100 kgs. He has opposed the grant of bail to the petitioner firstly on the ground that the confiscated quantity was of commercial quantity under the schedule of the NDPS Act and therefore the case of the petitioner would be hit by the bar contained under Section 37 of the NDPS Act and has submitted that there was no ground for making departure from the same and secondly, the present case is at the investigation stage and the police is still investigating the role of the petitioner as to whether he is involved in any other case or not and

therefore has opposed the grant of concession of regular bail to the petitioner.

I have heard the learned counsel for the parties.

The alleged confiscated 100 kgs. poppy husk, undoubtedly, is of commercial quantity and therefore, the present case comes within the purview of bar contained under Section 37 of the NDPS Act and investigation of the case is already going on and is not complete as on date. Although, a departure can be made from the bar contained under Section 37 of the NDPS Act but the same can be done only if the conditions contained therein are satisfied. In the present case, however, there is no reason to believe that the petitioner is not guilty of an offence and therefore, no departure can be made from the bar contained under Section 37 of the Act.

Consequently, the present petition is hereby dismissed.

(JASGURPREET SINGH PURI)
JUDGE

September 20, 2021
Manpreet

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