

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(223)

CRM-M-33256-2021

Date of decision:- 20.08.2021

Mohinder Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Ms. Gurvir Kaur Gill, Advocate for the petitioner.

Mr. Sandeep Singh Deol, DAG, Punjab.

...
SUVIR SEHGAL, J. (ORAL)

The Court has been convened through video conferencing due to Covid-19 pandemic.

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 seeking grant of regular bail in case FIR No.0059 dated 23.05.2021 under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short "the NDPS Act"), registered at Police Station Sadar Jalalabad, District Fazilka.

As per the prosecution case, FIR was registered as 1 kg. of poppy husk and an amount of Rs.50,000/- was recovered from the house of the petitioner, which was raided on the basis of a secret information.

Counsel for the petitioner submits that the petitioner has been falsely implicated in the case and he has no concern with the alleged recovery, which has been effected from an open space without associating any independent witness. She submits that there is a violation of the mandatory provisions of the NDPS Act. She urges that the quantity recovered from the petitioner falls within the ambit of small quantity as per

the notification issued under the provisions of the NDPS Act and the petitioner deserves to be enlarged on bail as the investigation qua him is complete and the challan has been filed.

Opposing the petition, learned State counsel, upon instructions from ASI Tilak Raj submits that the antecedents of the petitioner do not warrant grant of bail to him as he was involved in another case registered against him for offence under the NDPS Act in which he has been convicted. Upon further instructions, he states that the challan has been presented on 22.07.2021, charge has been framed on 05.08.2021, though none out of the eight prosecution witness could be examined.

Having considered the facts and circumstances of the case and the fact that the contraband recovered from the petitioner, is of small quantity and the bar under Section 37 (1) (b) of the NDPS Act is not attracted, this Court is prima facie of the view that the petitioner deserves to be enlarged on bail.

Without commenting upon the merits and de-merits of the arguments addressed by the counsel for the parties, the petition is allowed and the petitioner, namely, Mohinder Singh, is ordered to be released on bail on his furnishing adequate bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

While being released on bail, the petitioner will furnish an undertaking to the effect that he will not involve himself in sale, purchase or trade of prohibited substance and in case he violates the undertaking, it will be open to the State to seek cancellation of the bail.

It is clarified that any observation made hereinabove shall not be construed to be a reflection of opinion on the merits of the case.

20.08.2021

Kamal

(SUVIR SEHGAL)

JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No