

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-No45845 of 2019
Date of Decision:-17.03.2021

Lakhvir Singh @ Bhola ...Petitioner
Vs.

State of Punjab ...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr.P.S.Sekhon, Advocate for the petitioner.

Mr. Ramandeep Sandhu, Sr. DAG, Punjab.
SUVIR SEHGAL J.(Oral)

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

This 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. 181 dated 04.08.2019 (Annexure P-1) registered under Section 15 of the [Narcotic Drugs and Psychotropic Substances Act, 1985](#) (for short “the Act”) at Police Station Sahnewal, District Ludhiana (Punjab).

As per the version of the prosecution, FIR was registered on the basis of a secret information. The petitioner was apprehended while driving a car and was found to be in possession of three bags each containing 20 kilograms of poppy husk.

Learned counsel for the petitioner has contended that the mandatory provisions of the Act, have not been complied with. Still further, he submits that though the petitioner is involved in another case under the Act and was convicted, but in that case the contraband recovered from him fell within the ambit of non-commercial quantity and he was sentenced to the period already undergone by him by the High Court of Madhya Pradesh at Jabalpur, vide order

dated 24.06.2003 passed in Criminal Appeal No.1029 of 97 (Annexure A-1).

Learned counsel for the petitioner submits that 60 kg of poppy husk allegedly recovered from the petitioner is marginally above the non-commercial limit laid down under the Act. It is his submission that the petitioner is in incarceration since 14.08.2019, investigation in the case is complete and challan has already been presented but the trial is not progressing, therefore, the petitioner deserves to be enlarged on bail.

Per contra, learned State counsel upon instructions from SI Harpal Singh, has opposed the petition on the ground that the antecedents of the petitioner do not warrant his release on bail. As per instructions, challan has been presented on 21.10.2019 and the charge has been framed on 24.01.2020, but none out of 11 prosecution witnesses have been examined. He has referred to the bar in Section 37 of the Act and has resisted the petition.

I have considered the rival submissions of the parties.

The contraband recovered from the petitioner is marginally above the threshold limit of non-commercial quantity as specified in the notification issued under the Act. Reliance can be placed upon the orders passed by this Court in ***Rajdev Giri Vs. State of Punjab***, CRM-M-44898-2019, decided on 18.09.2020; ***Rahish Vs. State of Haryana***, CRM-M-36498-2020, decided on 11.11.2020; ***Karambir Vs. State of Haryana***, CRM-M-31820-2019, decided on 28.08.2019; ***Jagjit Singh@Jagga Gill Vs. State of Punjab***, CRM-M-41242-2019, decided on 27.02.2020 and ***Baljit Kaur @ Baljito Vs. State of Punjab***, CRM-M-12849-2020, decided on 04.06.2020, wherein accused were enlarged on bail in cases where the alleged recovery was slightly more than the quantity prescribed for commercial category under the Act.

Keeping in view the above facts and circumstances, nature of allegations, the gravity of offence and that the trial is likely to consume time due to spread of contagion, no purpose would be served by keeping the petitioner behind the bars any further.

Without commenting anything on the merits of the case, the petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

The petitioner will furnish an undertaking to the effect that henceforth, he will not indulge in any similar criminal activity and in case, he violates the undertaking, it will be open to the prosecution 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.

(SUVIR SEHGAL)
JUDGE

17.03.2021
Anjal/savita

Whether speaking/reasoned?	Yes
Whether reportable?	Yes