

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

**CRM-M No. 6339 of 2021
Date of Decision: 19.07.2022**

Gurmail Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Gagandeep Singh Gill, Advocate for
Mr. P.S. Sekhon, Advocate
for the petitioner.

Mrs. Anju Sharma Kaushik, Deputy Advocate General, Punjab

MAHABIR SINGH SINDHU, J.

1. Present petition has been filed under Section 439 of Criminal Procedure Code for seeking regular bail, pending trial in FIR No. 22, dated 29.01.2019, for offences punishable under Section(s) 18 & 25 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short “the Act”), registered at Police Station Sadar Jalandhar, District Jalandhar.

2. On the basis of a secret information, Truck No. PB-05-T-9920, driven by Hindu Gentleman, coming from Noormehal side, was stopped by the police party on 29.01.2019. Upon seeing the police party, the black polythene, held by driver (later on disclosed his name **Gurmail Singh** S/o Gurdeep Singh), was handed over the same to other person sitting on the bonnet (**Beant Singh** S/o Gurmukh Singh) and he further passed on the polythene to the person sitting on conductor side (**Sultan Singh** S/o Ganga Ram). After conducting the

search of polythene, the opium weighing 4.5 kgs. was recovered from the custody of above three accused.

3. This Court, on 28.01.2022, granted interim bail to petitioner in the following manner:-

“ Contends that petitioner is in custody since 29.01.2019 and there is no progress of trial at all. Also contends that there is no other criminal case pending against the petitioner except the present one.

Learned State Counsel seeks time to verify the above factual position.

Posted on 16.03.2022.

In the meanwhile, petitioner be released on interim bail in the present case till the next date of hearing on his furnishing adequate bail and surety bonds subject to the satisfaction of learned trial Court/CJM/Duty Magistrate concerned. ”

4. Learned counsel for petitioner submits that recovery in this case is alleged to have been effected from three persons, but no separate offer was made to the petitioner at the time of search of polythene; rather a joint statement of all the accused was recorded by the seizing officer; thus there is non-compliance of mandatory provision of Section 50 of “the Act”. He further submits that after grant of interim bail, petitioner has been regularly appearing before the Court below, but there is no progress of trial at all. Again contended that petitioner is not involved in any other criminal case, except present FIR. Lastly contended that there is no apprehension or allegation that in case, petitioner is granted bail, he is likely to threat the prosecution

witnesses or hamper the trial in any manner.

5. Learned State Counsel, upon instructions from quarter concerned, was not able to dispute the above contention(s).

6. In view of the above, sending the petitioner in custody at this stage will not serve any purpose. Moreover, in the opinion of this Court, non-compliance of Section 50 is also a sufficient ground to record the satisfaction in terms of Section 37 of “the Act” for the purpose of granting bail pending trial to petitioner.

7. Consequently, the present petition is **allowed**. Interim bail granted to the petitioner, vide order dated 28.01.2022, is made absolute. He shall be admitted to bail on his furnishing bail/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

8. Petitioner shall fully co-operate with the learned trial Court without seeking any unnecessary adjournments.

9. The above observations may not be construed as an expression of opinion on the merits of the case.

10. It is clarified that in case there is any misuse of concession of bail on the part of the petitioner, State of Punjab would be at liberty to move an appropriate application for recalling of this order.

July 19, 2022

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**(MAHABIR SINGH SINDHU)
JUDGE**

<i>Whether Speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>