

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

**CRM-M No. 20639 of 2020 (O&M)
Date of Decision: 12.12.2022**

Hoshiar Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Rajdeep Singh Gill, Advocate for
Mr. Jashandeep Singh Sandhu, Advocate
for the petitioner.

Mr. D.K. Singal, Additional 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. 127, dated 21.05.2019, for offences punishable under Section(s) 15/25 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short “the Act”), registered at Police Station Sardulgarh, District Mansa (Punjab).

2. Allegation is that the petitioner-accused was found in illicit possession of poppy husk, weighing 52 kgs.

3. This Court, on 15.01.2021, granted interim bail to petitioner in the following manner:-

“Contends that neither any prosecution witness has been examined; nor any other criminal case is pending against the petitioner.

Learned State counsel wishes to verify the above factual position.

Adjourned to 01.04.2021.

In the meanwhile, let petitioner be released on interim bail, till the next date of hearing, on his furnishing bail bond and surety bond to the satisfaction of learned trial Court/CJM/Duty Magistrate, concerned. ”

4. Learned counsel for petitioner submits that no offer was given to petitioner by police officials; 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. Again contended that petitioner is not involved in any other NDPS 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 ASI Makhan Singh, does not dispute the above contention(s), rather submits that out of total 13 prosecution witnesses, 07 have been examined and trial is pending for 24.01.2023.

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 15.01.2021, 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 in any manner.
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.

December 12, 2022

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**(MAHABIR SINGH SINDHU)
JUDGE**

<i>Whether Speaking/reasoned</i>	<i>Yes / No</i>
<i>Whether Reportable</i>	<i>Yes / No</i>