

223 **IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM-M-27388 of 2022(O&M)
Date of Decision: 09.08.2022**

Kaka Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Sukhwinder Singh, Advocate
 For the petitioner.**

Ms. Jaspreet Kaur, AAG Punjab.

KARAMJIT SINGH, J.

Short reply by way of affidavit of Deputy Superintendent of Police, Sub Division Malout, District Sri Muktsar Sahib filed by the State today in Court is taken on record.

The present petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case having FIR No. 75 dated 13.04.2022, registered under Section 8-B, 18 of Narcotic Drugs and Psychotropic Substances Act(for brevity, the Act) at Police Station Lambi, District Sri Muktsar Sahib.

The counsel for the petitioner submits that the petitioner has been falsely implicated in this case. Even otherwise, as per the allegations appearing on the record, 13 kgs and 250 grams of poppy plants were recovered, which were grown by the petitioner. The counsel for the petitioner further submits that the petitioner is in custody for the last about

three months and the case of the petitioner is covered under Section 18(c) of the Act which provides maximum sentence of 10 years, meaning thereby that provisions of Section 37 of Act *ibid* are not attracted to the present case.

The present petition is opposed by the State counsel who submits that the police received a secret information and raided the disclosed place belonging to the petitioner, on which it was found that petitioner had grown poppy plants and the same were immediately uprooted and their weight came out to be 13 kgs and 250 grams and the petitioner was apprehended at the spot. The State counsel further submits that after completion of investigation challan has been presented.

I have considered the submissions made by learned counsel for the parties.

The present case is relating to recovery of 13 kgs and 250 grams of poppy plants which are allegedly grown by the petitioner. As per Notification No. SO1055(E) dated 19.10.2001 which is part of the Act, small quantity and commercial quantity with respect of cultivation of opium poppy is not specified separately, as the offence in this regard is covered under Clause (C) of Section 18 of the Act which provides maximum sentence of 10 years and thus, the stringent provisions of Section 37 of the Act are not applicable to the instant case.

In the light of the above, as the challan has already been presented against the petitioner and it will take considerable time for the trial to conclude, no fruitful purpose is going to be served by keeping the petitioner in custody for any longer period. Thus, without commenting on

the merits of the case, instant petition is allowed. The petitioner is ordered to be released on regular bail during trial on his furnishing bail bonds and surety bonds to the satisfaction of Chief Judicial Magistrate concerned.

09.08.2022

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**(KARAMJIT SINGH)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No