

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

CRM-M-25842-2022

Date of decision : 10.06.2022

Pritam Singh

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present :- Mr. Navjot Singh, Advocate
for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab.

PANKAJ JAIN, J. (ORAL)

This petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case F.I.R. No.46 dated 16.04.2022, registered under Sections 18, 61 and 85 of NDPS Act, at Police Station City 1 Sangrur, District Sangrur.

2. As per the allegations in FIR, a police party was present at the bridge between Barnala road to Upawal road at around 9.30 P.M. and when they were 500 yards away from the bridge, a brownish-red swift car bearing No.HR-06-M-6426 was found parked at the edge of the bridge and the light in the car was flashing. It was stated that the petitioner was sitting at the driver seat of the car and as per version of the prosecution, the petitioner was seen sitting on the driver seat and putting a substance of black colour in small polythene from a large transparent polythene bag.

3. The recovery effected is 1 kg of opium, which is less than the commercial quantity i.e. 2.5 kg.

4. Counsel for the petitioner submits that the petitioner is behind bars since 16.04.2022. The question as to whether carrying of contraband in a transparent polythene bag is believable would be a debatable question in terms of law laid down in **Jaskaran Singh @ Jassi vs. State of Punjab** reported as **2021 (2) RCR Criminal 837** and **Binder Kaur @ Goga vs. State of Punjab** reported as **2021 (3) RCR Criminal 360**.

5. It has been further contended that keeping in view the fact that the quantity is less than the commercial quantity, the rigor of Section 37 of the NDPS Act will not be attracted.

6. Learned state counsel submits that challan is yet to be presented. He further brings to the notice of this Court that the petitioner is facing another FIR, though not under NDPS Act.

7. Without commenting on the merits of the case and keeping in view the fact that challan has not yet been presented and the trial is going to take long time, the petitioner is held entitled for concession of regular bail. Accordingly, the present petition is allowed and the petitioner namely, Pritam Singh is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

8. Nothing observed herein shall be construed to be an expression of an opinion on the merits of the case.

(PANKAJ JAIN)
JUDGE

10.06.2022

Dinesh

Whether speaking/reasoned

Yes

Whether Reportable :

No