

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

CRM-M-31645-2022

Date of Decision:-20.10.2022

Soni Singh @ Chamkaur Singh.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. S.S. Gill, Advocate for the Petitioner.

Mr. Jaiteshwar Singh, Assistant Advocate General, Punjab.

JASJIT SINGH BEDI, J.

The Prayer in this petition under section 439 Cr.PC is for the grant of regular bail in case FIR No.72 dated 21.05.2022 under Sections 15, 25, 29 of the NDPS Act, 1985 registered at Police Station Dhanaula, District Barnala.

The brief facts of the case are that while the police party was on patrolling duty a secret information was received that Barinder Singh @ Raju and Manga Singh who were having an Accent car bearing registration no.PB-03AX-8329 and Swift Car bearing registration No.PB-13BD-7886 used to bring Poppy Husk from outside and sell the same in the area of Dhanaula and Barnala. On that day both of them had loaded Poppy Husk in their cars and were waiting to supply the same in the area of Dhanaula town and its nearby villages. If a search was conducted they could be apprehended along with huge quantity of Poppy Husk. Based on the

aforesaid information the present FIR came to be registered. Subsequently the aforementioned two accused were apprehended along with Accent car and a recovery of 200 Kgs of Poppy Husk was effected from that car.

During investigation Manga Singh disclosed that the Poppy Husk recovered from him was to be delivered to Soni Singh @ Chamkaur Singh (present petitioner) and on the basis of the said disclosure statement the petitioner was nominated as an accused in the present case under Section 29 of the NDPS Act, 1985. The petitioner was arrested on 26.05.2022 and suffered a disclosure statement pursuant to which he got recovered 3 Kgs of Poppy Husk on 27.05.2022.

The Counsel for the petitioner contends that the petitioner is not named in the FIR nor in the secret information. He has been named only in the disclosure statement of his co-accused which is inadmissible in evidence and even otherwise since the recovery effected from him of 3 Kgs of Poppy Husk is of non commercial quantity, therefore the rigors of Section 37 of NDPS Act did not apply to the petitioner. Since the petitioner was in custody since 26.05.2022 and the trial was not likely to be concluded in the near future, he deserved the concession of bail.

The Counsel for the State on the other hand contends that the petitioner is a trafficker along with his co-accused. As per the disclosure statement 200 Kgs of Poppy Husk was to be supplied to the petitioner. Further he is involved in two other cases under the NDPS Act as also one case under the Excise Act and, therefore, did not deserve the concession of bail in view of his antecedents.

I have heard counsel for both the sides at length.

Admittedly, the petitioner in the present case is named in the

disclosure statement of the arrested accused. Subsequently thereto 3Kgs of Poppy Husk was recovered at his instance which is a non commercial quantity. It may be relevant to mention here that limitations to the grant of bail under Section 37 of the NDPS Act are in addition to those prescribed under Cr.PC or any other law inforce on the grant of bail as has been set out by the Hon'ble Supreme Court in *Satpal Singh Vs. State of Punjab 2018(5) RCR (Criminal) 152*. In the present case, the petitioner is involved in two other cases under the NDPS Act. Thus, as he is a habitual offender, he is not entitled to the grant of bail even under Section 439 Cr.PC keeping in view his antecedents. Even otherwise, assuming that the rigors of Section 37 of the NDPS Act did not apply to the petitioner, that by itself would not *ipso facto* lead to the grant of bail to the petitioner.

In view of the above discussion, I find no merit in the present petition and the same is therefore dismissed.

(JASJIT SINGH BEDI)
JUDGE

October 20, 2022
Vinay

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No