

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

214

CRM-M-42291-2021

Date of Decision: 30.05.2022

Mithu Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Fariad Singh Virk, Advocate,
for the petitioner.

Mr. Tanvir Joshi, AAG, Punjab,
assisted by ASI Paramjit Singh.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No.83 dated 07.07.2021 at Police Station Barnala, under Sections 15/25/29 of the NDPS Act.
2. The case of the prosecution is that a secret information was received on 07.07.2021 to the effect that Amrik Singh @ Rinku, Jatinder Singh @ Sonu and others had formed a gang and they used to procure 'poppy husk' from other States and used to sell the same in Barnala and nearby villages. The information was further to the effect that even on the given day, they were coming in a car bearing registration No.PB-11-AL-3455 and were proceeding to Barnala. It is further the case of prosecution that upon receipt of said information, the police was able to apprehend the aforesaid Amrik Singh @ Rinku,

- Jatinder Singh @ Sonu and from their possession 4 bags of 'poppy husk' weighing 25 kilograms each were recovered. It is further the case of prosecution that on 12.7.2021 the said persons suffered a disclosure statement nominating four persons as their associates namely Lachman Singh @ Golu, Sandeep Serry, Mithu Singh (petitioner) and Aslam. It is further the case of prosecution that Mithu Singh was arrested thereafter and from his possession 10.5 Kgs. of 'poppy husk' and a cash amount of Rs.18,000/- being the drug money, was recovered.
3. Learned counsel for the petitioner has submitted that he is nowhere named in the FIR and he came to be nominated subsequently on the basis of a disclosure statement made by co-accused and that although the police claims that pursuant to said disclosure statement, poppy-husk weighing 10.5 Kgs. was recovered apart from an amount of Rs.18,000/-, but no sanctity to such like recovery pursuant to disclosure statement can be attached. It has further been submitted that the petitioner cannot be said to be having complete domain over the house inasmuch there are other members in his family including male members. Learned counsel has further submitted that since another co-accused, who has also been nominated on the basis of disclosure statement i.e. Lachman Singh @ Golu, had been granted anticipatory bail, therefore, the petitioner, who has already been behind bars for the last more than 10 months is entitled to regular bail.
4. Opposing the petition, learned State counsel has submitted that since recovery of contraband i.e. 10.5 Kgs. was effected from the house of the petitioner apart from drug money amounting to Rs.18,000/-, his

complicity is clearly evident. It has been informed that none of the cited 17 PWs has been examined till date. Learned State counsel has also informed that the petitioner happens to be involved in 6 other cases out of which he stands acquitted in 1 case and stands convicted in 1 case.

5. I have considered rival submissions addressed before this Court.
6. It is not in dispute that the petitioner came to be nominated on the basis of a disclosure statement made by co-accused. It is also the case of the prosecution that when the petitioner was arrested from his home, 10.5 Kgs. of poppy-husk was recovered. The said quantity of contraband would fall within the category of 'non commercial' quantity. The petitioner in any case has been behind bars since the last about more than 10 months. Conclusion of trial is likely to take time inasmuch as not even a single PW out of cited 17 PWs has been examined so far. In these circumstances, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

30.05.2022

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**(GURVINDER SINGH GILL)
JUDGE**Whether speaking/reasoned: **Yes/No**Whether reportable: **Yes/No**