

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

**CRM-M-44463-2021
DECIDED ON: 28.09.2022**

PAL SINGH ALIAS PALA

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Vijay Lath, Advocate for the petitioner.

Mr. Rajiv Verma, DAG, Punjab.

SANDEEP MOUDGIL, J. (ORAL)

This is a petition seeking regular bail in FIR No.0011, dated 30.03.2021, under Sections 15 and 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985), registered at Police Station Sadar Morinda, District Rupnagar, Punjab.

Learned counsel for the petitioner contends that the alleged recovery of 5 kg opium and 10 kg of poppy husk was effected from the cabin of the vehicle i.e. Truck bearing No.PB-11-CL-5731 on a secret information to the effect that such vehicle is being used for selling opium and poppy husk, after smuggling from other States, to the consumers in the area of Rupnagar. To controvert the above said fact, learned counsel for the petitioner has referred to the recovery memos (Annexures P-2 and P-3), to demonstrate that such recovery memos are based on either afterthought or are anti-dated, as they do not bear the signatures of the accused, who were apprehended at the spot.

On the other hand, learned State counsel, on instructions from

SI Harbans Singh, could not controvert the said fact after examining the said

recovery memos, which makes out a prima facie case, atleast for grant of concession of regular bail at this stage.

It is seen from the record that Forensic Report is already part of challan, which is attached with the file as Annexure P-4; further the recoveries are of non-commercial quantity; further there is no time mentioned in both the recovery memo that at what time the alleged recoveries were made. It is also seen from the recovery memos and the FIR that some of the witnesses of the recovery memos were not members of the police party. More so, according to the petitioner, he is behind bars since 30.03.2021 and has, as such, suffered imprisonment for more than one year and six months'. The case of the petitioner is found to be covered with the order dated 25.02.2021, passed by the Co-ordinate Bench of this Court in CRM-M-20177-2020, wherein the accused/petitioner had suffered one year and seven months' imprisonment. The custody period of the petitioner also in the present case is about the same.

Looking at the totality of the facts and in view of the submissions made hereinabove, no fruitful purpose will be served by keeping the petitioner behind bars as the conclusion of the trial is likely to take time, therefore, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate, concerned.

The present petition is, therefore, allowed.

(SANDEEP MOUDGIL)
JUDGE

28.09.2022

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Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*