

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-47962-2022 (O&M)

Date of Decision:-19.12.2022

Amar Singh

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Raman Chawla, Advocate for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana,
assisted by ASI Baldev Raj.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner seeks grant of regular bail in respect of a case registered vide FIR No.351, dated 3.10.2021, Police Station Sadar Fatehabad, Fatehabad, under Sections 15/27-A/29/61/85 of Narcotic Drugs and Psychotropic Substances Act, 1985.
2. It is the case of prosecution that on 3.10.2021, during the course of nakabandi and checking of vehicles, the police gave signal to a white coloured i-20 car bearing registration No. HR-59D-7171, to stop but the driver of the said vehicle tried to turn back the vehicle and on account of haste, hit the iron grill and the car came to a halt. The persons sitting in the vehicle were apprehended by the police. While the driver disclosed his name as Lakhwinder Singh @ Lakha son of Mukhtiyar Singh @ Mukhtaryi, the

other person sitting on the front passenger seat disclosed his name as Mukhtiyar Singh @ Mukhtaryi. A search of three plastic bags lying on the rear seat led to recovery of 36 kilograms of 'poppy husk'.

3. It is further the case of prosecution that during interrogation Mukhtiyar Singh @ Mukhtaryi disclosed that the '*poppy husk*' had been procured from Amar Singh (petitioner) and that said Amar Singh had sent his son Anil Kumar alongwith Lakhwinder and Mukhtiyar Singh and had got loaded three bags of '*poppy husk*' from a house constructed in the fields near Jagat Place Hotel.
4. Learned counsel for the petitioner has submitted that the petitioner was never ever present at the spot and came to be nominated on the basis of disclosure statement made by co-accused Lakhwinder Singh @ Lakha and also of Mukhtiyar Singh @ Muktiyari and that such like disclosure statements cannot be said to be substantive evidence. It has further been submitted that in the instant case the contraband recovered from the co-accused is 36 kilograms of '*poppy husk*', which would fall in the category of 'non-commercial' quantity.
5. Opposing the petition, learned State counsel has submitted that apart from the disclosure statement, the investigating agency had collected call-details record, which clearly indicate that the petitioner was in regular touch with the co-accused, who were caught red handed while in possession of contraband and which clearly shows his complicity. Learned State counsel has further informed that the petitioner had previously been involved in 8 other cases including 3 cases registered for offence under NDPS Act though he stands acquitted in 2 of the said cases under NDPS Act and 1 is still

pending. Learned State counsel, upon instructions from ASI Baldev Raj, has informed that although investigation is complete but challan is yet to be presented and as many as 14 PWs have been cited.

6. This Court has considered the rival submissions.
7. It is not in dispute that the petitioner was not caught red-handed at the spot and came to be nominated on the basis of disclosure statements. The Investigating Agency claims to have collected some more evidence in the shape of call-details record. The admissibility and veracity of the aforesaid evidence would be debatable. In any case, the petitioner has been behind bars for a substantial period of about 2 months. This Court further finds that a period of 60 days has already elapsed after arrest of the petitioner and challan against the petitioner has not been presented till date. In these circumstances, further detention of the petitioner will not serve any useful purpose. The petition, as such, is allowed 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.

19.12.2022

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No