

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

**CRM-M No.49241 of 2022 (O&M)
Date of decision : 07.12.2022**

Sukhwinder Kumar @ Shindi

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Ashok Giri, Advocate for the petitioner.

Mr. Jaiteshwar Singh, Asstt. A.G., 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.72 dated 03.09.2022 registered under Section 15 of NDPS Act, 1985 at Police Station Lambran, Distt. Jalandhar Rural.

Learned counsel for the petitioner contends that as per the allegations levelled by the prosecution, the petitioner was allegedly found to be in conscious possession of 8 kg of poppy husk which is non-commercial quantity and thus could not attract rigour contained under Section 37 of the NDPS Act. He further submits that the investigation already stands concluded. The petitioner has been in custody since 03.09.2022.

Per contra, learned State counsel on instructions from ASI Niranjan admits that the report under Section 173(2) Cr.P.C. is complete but yet not filed. It has been submitted that petitioner is a habitual offender and already stands convicted. However, he does not dispute the fact that in those cases as well the quantity involved was small and the petitioner was

sentenced to already undergone.

I have heard learned counsel for the parties and have gone through the records of the case.

Keeping in view the fact that the rigour of Section 37 of the NDPS Act will not be attracted in the present case and the fact that the investigation stands already concluded. All the witnesses are official witnesses and thus there cannot be any apprehension that the petitioner shall have any opportunity to tamper with the evidence, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned. However, in addition to conditions that may be imposed by the Trial Court/Duty Magistrate concerned, the petitioner shall remain bound by the following conditions :-

- (i) The petitioner shall not mis-use the liberty granted.*
- (ii) The petitioner shall not tamper with any evidence oral or documentary during the trial.*
- (iii) The petitioner shall not absent himself on any date before the trial.*
- (iv) The petitioner shall not commit any offence similar to the one alleged in the present case.*
- (v) The petitioner shall deposit his passport, if any with the trial Court.*
- (vi) The petitioner shall give his cellphone number to the police authorities and shall not change his cell-phone number without permission of the trial Court.*
- (vii) The petitioner shall not in any manner try to delay the trial.*

Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.

(PANKAJ JAIN)
JUDGE

07.12.2022

Pooja sharma-I

Whether speaking/reasoned

Yes

Whether Reportable :

No