

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

**CRM-M-54404 of 2022 (O&M)  
Date of decision : 30.11.2022**

Sunil Kumar

..... Petitioner

versus

State of Haryana

..... Respondent

**CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN**

**\*\*\***

Present :- Mr. V.B.Godara, Advocate  
for the petitioner.

Mr. Sumit Jain, Addl.AG, Haryana.

**\*\*\***

**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.195 dated 13.08.2022 registered under Section 15 (b) of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Sadar Tohana, District Fatehabad.

Custody certificate by way of affidavit of Dalbir Singh, Dy. Superintendent Jail, Deputy Superintendent, Central Jail No.2 (Hisar), Haryana on behalf of State has been filed. The same is taken on record. As per custody certificate furnished by learned State counsel, the petitioner has already undergone an actual custody period of 3 months and 16 days.

Learned counsel for the petitioner submits that recovery alleged to have been effected from the petitioner is of 6 kg 100 gms of doda post (poppy-straw) which is less than the commercial quantity as notified under the Act. The petitioner is in custody since

13.08.2022 i.e. the date of registration of FIR. Investigation already stands concluded. Challan stands presented and thus further incarceration of the petitioner would not serve any purpose.

Learned State counsel opposes the prayer made by the counsel for the petitioner claiming that the petitioner is a habitual offender and has been repeatedly convicted for offence punishable under Gambling Act. However, he does not dispute that as per the custody certificate there is no other case pending against the petitioner and the petitioner has undergone actual custody of 3 months and 16 days. He also does not dispute that the investigation stands concluded and the report under Section 173(2) stands filed.

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

In the considered opinion of this Court, keeping in view the quantity alleged to have been recovered from the petitioner, rigours of Section 37 of the NDPS Act will not be attracted in the present case. Investigation already stands concluded.

Keeping in view the incarceration suffered by the petitioner and without commenting on the merits of the case, 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 anything recorded herein shall not be construed as an expression of opinion on the merits of the case.

**( PANKAJ JAIN )**  
**JUDGE**

**30.11.2022**  
*Pooja sharma-I*

|                           |     |
|---------------------------|-----|
| Whether speaking/reasoned | Yes |
| Whether Reportable :      | No  |