

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

CRM-M-48979-2019

Date of decision: 15.07.2022

Balinder Sahni

...Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Yashpal Thakur, Advocate,
for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Through this petition, the petitioner seeks regular bail in case FIR No.34 dated 18.03.2019, registered at Police Station Fatehgarh Sahib, Tehsil and District Fatehgarh Sahib, under Section 18 NDPS Act, 1985.

Learned counsel for the petitioner contends that the petitioner has falsely been implicated in the present case, and that the petitioner had no connection with the alleged recovery of 6 kg opium.

Learned counsel further contends that though recovery of the aforesaid contraband allegedly effected in the present case, falls under the commercial quantity, yet the fact remains that the petitioner has been in custody since 18.03.2019 and out of 17 prosecution witnesses, 04 witnesses have been examined so far. The conclusion of the trial would take a long time. There is no other case registered or pending against the petitioner. On this premise, the learned counsel prays for the grant of bail to the petitioner. In support of his contentions, the learned counsel relies upon the order delivered by the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No.7871/2021, titled as 'Sushil Biswas Vs. State of West

Bengal', decided on 08.12.2021.

On the other hand, learned State counsel, while opposing the grant of bail to the petitioner, submits that the recovery effected in the present case, falls under the commercial quantity. However, he does not dispute the custody period of the petitioner.

I have heard the learned counsel for the parties.

As per the case of the prosecution, on 18.03.2019, the petitioner was intercepted by the police party and was found in conscious possession of 06 kg. opium, without having any valid permit or licence.

The petitioner has been in custody since 18.03.2019. Out of 17 prosecution witnesses, 13 witnesses are yet to be examined. There is no other case registered or pending against the petitioner, at least of similar nature. All these facts persuade this Court to grant bail to the petitioner despite the rigors of Section 37 NDPS Act in the present case. Therefore, no useful purpose would be served by keeping the petitioner behind the bars.

In view of the above, without commenting anything on the merits, lest it should prejudice the case of either side, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate.

However, it is made clear that in case, the petitioner is found indulged in any other case under the NDPS Act, the prosecution would be at liberty to seek cancellation of his bail in this case.

15.07.2022

parveen kumar

(HARNARESH SINGH GILL)

JUDGE

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No