

2023:PHHC:071289

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

**CRM-M-7645-2023
Date of Decision: 16.05.2023**

Pardeep Sharma alias ManavPetitioner
Versus
State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present:- Mr. Gaurav Sharma, Advocate,
 for the petitioner.

 Mr. Munish Sharma, DAG, Haryana.

ASHOK KUMAR VERMA, J. (Oral)

Petitioner has filed this petition under Section 439 Cr.P.C for grant of regular bail pending trial in case FIR No.92 dated 07.10.2022 registered under Sections 15/61/85 of the NDPS Act, at Police Station Shahpur Kandi, District Pathankot.

2. Reply by way of affidavit of Sh.Rajinder Singh, DSP, Sub-Division Dhar Kalan, District Pathankot, dated 05.05.2023, already filed in the Registry on behalf of respondent-State, is taken on record.

3. Brief facts of the case are that on 07.10.2022, on the basis of a secret information, the police apprehended 03 persons, who were in a Swift Desire Car bearing registration no.PB-35-AF-0993 and on inquiry the driver of the car alighted and disclosed his name as Pardeep Sharma alias Manav and the person who alighted from the conductor seat disclosed his name as Avinash Rai alias Shakti and another person sitting behind also alighted and disclosed his name as Varinder Kumar alias Mannu. On search of the

aforesaid car, from the dickey three plastic sacks containing intoxicant substance, i.e. Poppy husk were recovered, which after weighing on computerised scale came to 20/20 kilograms each alongwith plastic sacks, in total 60 kilograms poppy husk was recovered.

4. Learned counsel for petitioner submits that the petitioner-Pardeep Sharma has been falsely implicated in the present case and the false recovery has been planted upon him and the story of the prosecution is concocted one. Till date no report of Forensic Science Laboratory regarding ingredients of the said poppy husk has come so far so as to ascertain that the said poppy husk contained any intoxicant substance falling under NDPS Act or not.

5. Learned counsel for the petitioner further submits that the alleged search has been effect by the DSP and no independent witness was joined at that time. Hence there is non-compliance of the other mandatory provisions of the NDPS Act.

6. He further submits the petitioner is in custody since 07.10.2022. The trial is likely to take long time. No useful purpose will be served by further detention of the petitioner in custody. The petitioner is not involved in any other criminal case of the like nature. Hence, he prays that the petitioner may be released on regular bail.

7. On the other hand learned State counsel strongly opposes the present petition on the ground that the huge quantity of 60 kgs. of poppy husk, which falls in the category of commercial quantity, has been recovered from the car which was being driven by petitioner-accused Pardeep Sharma while other two co-accused also sitting in the same car. He further submits

that even as per the reply by way of affidavit of Rajinder Singh, DSP, Sub Division Dhar Kalan, the provisions of Section 42 of the NDPS Act has been complied with. At the time of the search/recovery of the contraband consent memo was also prepared separately. Therefore, the present petition may be dismissed.

8. I have heard learned counsel for the parties and gone through the paper-book as also the reply filed by the State, it reveals that three plastic sacks containing 20/20 Kilograms each of Poppy Husk, weighing total 60 Kilograms of Poppy Husk has been recovered from the dickey of the Car having registration no. PB-35-AF-0993, which was being driven by the petitioner-Pardeep Sharma alias Manav while one of the co-accused namely Avinash Rai alias Shakti was sitting on the conductor seat and another Varinder Kumar alias Mannu was sitting back seat of the said car. The contraband weighing 60 Kilograms of Poppy Husk recovered in the present case falls within commercial quantity. The aforesaid apprehended persons also stated to have reposed their faith upon the DSP and gave consent to be searched by him and a consent memo was also prepared at the time of search.

9. The Hon'ble Apex Court in case **State of Punjab Vs. Baldev Singh** : 1999 AIR SC 2378 has observed regarding Drug Addiction, Drug abuse and its effect on the society. The Hon'ble Apex Court in para No.3 has observed as under:-

“3. Drug abuse is a social malady. While drug addition eats into the vitals of the society, drug trafficking not only eats into the vitals of the economy of a country, but illicit money generated by drug trafficking is often used for illicit activities including encouragement of terrorism. There is no

doubt that drug trafficking, trading and its use, which is a global phenomena and has acquired the dimensions of an epidemic, affects the economic policies of the State, corrupts the system and is detrimental to the future of a country. It has the effect of producing a sick society and harmful culture. Anti-drug justice is a criminal dimension of social justice. The United Nations Conventions Against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances which was held in Vienna, Australia in 1988 was perhaps one of the first efforts, at an international level, to tackle the menace of drug trafficking throughout the comity of nations. The Government of India has ratified this convention.”

10. The aforesaid ratio of law has also been reiterated by the Hon'ble Supreme Court recently in **Sri Thaha Ummer Vs. Union of India**, Criminal Petition No.9450/2022 decided on 09.11.2022

11. Keeping in view the facts and circumstances of the case, evidence against the petitioner, the fact that the alleged contraband recovered falls under the category of 'commercial' quantity which attracts rigors of Section 37(1)(b) of the NDPS Act, I am of the considered view that the petitioner does not deserve the concession of regular bail.

12. In view of the above, the present petition is dismissed.

(ASHOK KUMAR VERMA)
JUDGE

May 16, 2023

dharamvir

Whether speaking/reasoned : YES/NO
Whether Reportable : YES/NO