

CRM-M-29102-2023 -1-

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(225) CRM-M-29102-2023
Date of decision:- 13.07.2023

Balkar Singh ... Petitioner
Versus
State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Bikramjit Singh Randhawa, Advocate for
Mr. Tarun Sharma, Advocate for the petitioner.

Mr. Arun Luthra, DAG, Punjab for State-respondent.

SUVIR SEHGAL, J. (ORAL)

1. Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 seeking grant of post-arrest bail in:-

FIR No.	Dated	Police Station	Sections
0052	04.03.2023	Special Task Force, District STF Wing (Mohali)	18 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “the NDPS Act”)

2. Version of the prosecution is that FIR, Annexure P-1, has been registered when on the basis of a secret information, a car was intercepted and recovery of 1 kg opium was effected. Balkar Singh, present petitioner, who was driving the car, was apprehended at the spot.

3. Counsel for the petitioner has contended that at the time of alleged search and seizure, mandatory provisions of the NDPS Act have not been followed. It is his categoric assertion that no independent witness was joined, even though recovery is alleged to have been effected from a public place. Still further, he submits that the alleged recovery effected from the petitioner falls within the category of non-commercial quantity

and the petitioner, who has a clean past and is languishing behind bars, deserves to be released on bail.

4. *Per contra*, State counsel, upon instructions received from SI, Gurnek Singh, has opposed the petition. On the basis of Custody Certificate dated 07.06.2023, filed by him, he is not in a position to dispute the clean antecedents of the petitioner. As per his instructions, challan has been presented and charge has been framed on 06.07.2023.

5. Having heard counsel for the parties, but without commenting upon the allegations levelled in the FIR, this Court is inclined to accept the prayer made in the petition. Petitioner is in custody for the last more than four months, contraband recovered from him falls within the ambit of non-commercial quantity, charge has been framed and the trial is likely to take time to conclude. Furthermore, bar under Section 37 of the NDPS Act is not attracted in the case of the petitioner.

6. Petition is allowed.

7. Petitioner is ordered to be released on bail on furnishing adequate bail/surety bonds to the satisfaction of the Area Magistrate/Duty Magistrate/Trial Court concerned.

8. It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

13.07.2023
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No