

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

**CRM-M-40457-2021
Date of Decision: 13.02.2023**

BAGICHA SINGH	V/S	... PETITIONER
STATE OF PUNJAB		... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. A.S.Brar, Advocate for the petitioner.
Ms. Ruchika Sabherwal, DAG Punjab.

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VIVEK PURI, J. (ORAL)

The petitioner is seeking regular bail in the case bearing FIR No. 70 dated 18.07.2021 under Section 18 of Narcotic Drugs & Psychotropic Substances Act, registered at Police Station Mehna, District Moga.

Custody certificate has been taken on record.

Learned counsel for the petitioner contends that as per the allegations, 2 Kg 700 gms of opium has been recovered from the possession of the petitioner, which is marginally above the commercial quantity. The petitioner is in custody for a period of 1 year, 6 months and 26 days and not involved in any other case under NDPS Act.

On the contrary, learned State counsel has opposed the bail application on the score that the quantity of contraband recovered from the possession of the petitioner falls in the category of commercial quantity. It has been further submitted that out of 13, till date no witness has been examined.

In the case in hand, custody certificate indicates that the petitioner is in custody for a period of 1 year, 6 months and 26 days. In **Jagjit Singh @ Jagga Gill Versus State of Punjab, 2020 (2) RCR Criminal 612**, the Co-ordinate Bench of this Court has observed that the bar under Section 37 of NDPS Act in a commercial quantity is not absolute in nature when the recovered contraband is slightly more than commercial quantity. Even, in the instant case, the quantity of opium allegedly recovered from the petitioner is marginally above the commercial quantity. There is nothing to indicate that the petitioner is involved in any other case under NDPS Act. Furthermore, the trial of the case is not progressing as till date no witness has been examined. The case of the prosecution hinges on the deposition of official witnesses only. In such circumstances, it cannot be said that the petitioner can tamper with the evidence or influence the witnesses. The conclusion of the trial is likely to take some time and no fruitful purpose will be served by detaining the petitioner in custody.

In these set of circumstances, the ends of justice will meet if the petitioner is extended the concession of bail. Without expressing any opinion on the merits of the case, the instant petition is allowed. The petitioner is ordered to be released on bail on his furnishing requisite bail bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

13.02.2023

Janki

**(VIVEK PURI)
JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No