

2023:PHHC:111650

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

206+101

**CRM-M-41472-2023(O&M)
Date of Decision:-25.08.2023**

JASPAL SINGH ALIAS JASSA

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Prateek Pandit, Advocate
for the petitioner.

Mr. Rajiv Verma, DAG, Punjab.

SANDEEP MOUDGIL, J. (Oral)

CRM-35587-2023

This application has been filed under Section 482 Cr.P.C. for placing on record Annexures P-3 and P-4 respectively.

For the reasons mentioned in the application, the same is allowed.

Annexures P-3 and P-4 are taken on record, subject to all just exceptions.

Main case

1. The instant petition invoking the jurisdiction of this Court under Section 439 Cr.P.C. has been moved with a prayer for regular bail to the petitioner in FIR No.66 dated 31.08.2022 registered under Section 18 of the NDPS Act at Police Station Sadar Phagwara, District Kapurthala.
2. Learned counsel for the petitioner contends that the petitioner has been falsely implicated after being picked up from his house. As per the allegations in the FIR, the petitioner was apprehended by the police

party with a black coloured bag containing 2 kg 600 grams of opium, which had fallen from the motorcycle of the petitioner. He further contends that mandatory provisions of Sections 50, 52-A, 57 of the NDPS Act regarding search and seizure have not been complied with as no recovery has been effected from the petitioner. He submits that the alleged recovery is marginally above than non-commercial quantity and it has not been specified as to whether the contraband was weighed with the polythene bag or without it, therefore, provision of Section 37 of the NDPS Act would not attract.

3. It has been asserted by learned State counsel that the allegations levelled against the petitioner are serious and grave in nature and did not controvert the fact that the recovery effected from the petitioner is marginally above than non-commercial quantity.

4. Looking into the totality of facts and the discussions made hereinabove, this Court is of the firm view that no useful purpose would be served by keeping the petitioner behind the bars for uncertain period, wherein bail is a rule and jail is an exception and it would violate the principle of right to speedy trial and expeditious disposal under Article 21 of the Constitution of India, as has been time and again discussed by this Court, while relying the judgment of the Apex Court passed in ***Dataram Singh vs. State of Uttar Pradesh & Anr. 2018(2) R.C.R. (Criminal) 131.***

5. In the light of the above, the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

6. The present petition is, hereby, allowed.

7. However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

25.08.2023
P.Bhatt

(SANDEEP MOUDGIL)
JUDGE

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