

236 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-47798-2023
Date of decision: 15.11.2023

LAKHVIR SINGH

...Petitioner

VERSUS

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. L. S. Lakhanpal, Advocate for the petitioner.

Mr. Gurdarshan Singh Sidhu, AAG, Punjab.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.20 dated 07.03.2023, under Section 16 of the NDPS Act, registered at Police Station Sadar Raikot, District Ludhiana Rural, Punjab.

2. Learned counsel for the petitioner submitted that the petitioner is in custody from 07.03.2023 and he has clean antecedents and is not involved in any other case. He further submitted that as per the prosecution story, there was an alleged recovery of 1 quintal and 80 kgs. of poppy plants from the backyard of the house of the petitioner and the poppy husk weighed 50 kgs. He further submitted that below 50 kgs. does not fall in the category of commercial quantity and the investigation of the case has already been completed by the police and the bar contained under Section 37 of the NDPS Act will not apply to the present petitioner.

3. On the other hand, Mr. Gurdarshan Singh Sidhu, AAG, Punjab submitted that it is correct that the petitioner is in custody from 07.03.2023 and

the total quantity of poppy husk in the present case is 50 kgs. He further submitted on instructions that the petitioner has clean antecedents and he is not involved in any other case.

4. I have heard the learned counsel for the parties.

5. The alleged recovery from the backyard of the house of the petitioner was found to be 1 quintal and 80 kgs of poppy plants, whereas as per the learned counsel for the parties, the quantum of poppy husk in the present case is stated to be 50 kgs. As per the provisions of the NDPS Act, 50 kgs. poppy husk falls in the category of commercial quantity. The petitioner is stated to be not involved in any other case and has clean antecedents and the investigation of the case has already been completed by the police and therefore, this Court is of the view that considering the weight of the poppy husk to be 50 kgs. which is on border line, the bar contained under Section 37 of the NDPS Act will not apply to the present petitioner.

6. Consequently, the present petition is allowed. The petitioner shall be released on regular bail, if not required in any other case, subject to furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.

7. However, anything observed hereinabove shall not be treated as an expression of opinion on the merits of the case and is meant for the purpose of deciding the present petition only.

(JASGURPREET SINGH PURI)
JUDGE

15.11.2023
Chetan Thakur

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