

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

CRM-M-61177-2023

Date of Decision:12.12.2023

Avtar Singh

...Petitioner

vs.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : None for the petitioner.

Mr. Rajiv Sindhu, DAG, Haryana.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the instant petition under Section 439 Cr.PC with a prayer to grant regular bail in case FIR No. 159 dated 29.04.2023 registered under Sections 15/25/29/61/85 of NDPS Act, Police Station Sadar Pehowa, District Kurukshetra.

2. This matter was listed on 11.12.2023 and on request made by learned counsel for the petitioner, the case was adjourned to 12.12.2023 i.e today. It was made clear that no further adjournment shall be granted. Today there is no representation on behalf of the petitioner to assist the Court.

3. In the present case, the FIR was registered on the basis of the statement made by SI Rishipal. On 29.04.2023, a police party headed by him was present for patrolling duty and in the meantime, a secret informer informed them that Avtar Singh son of Bachan Singh, resident of village Keuhua District Karnal along with Kamaljeet son of Sh. Rajender Kumar, Village Tarauri,

District Karnal used to purchase poppy husk at cheaper rate from Rajasthan and Madhya Pardesh and were selling the same in Punjab and Haryana at higher rates and they were about to reach at Pehowa. On getting this information, a picket was set up by the police and both of them were apprehended at the spot and 85 Kg of poppy straw was recovered from them. With these main allegations, the FIR was registered in the present case against the petitioner and his co-accused.

4. I have perused the paper book and heard the learned State counsel.

5. The petitioner has stated in the petition that the recovery of 85 Kg of poppy straw was planted on him and no poppy straw was recovered from his conscious possession. Still further, his presence at the place of occurrence is yet to be established during the course of trial. Apart from that, there was violation of mandatory provisions of Section 50 of NDPS Act and no link evidence was there. He was arrested in the present case on 29.04.2023 and his further custody will not serve any meaningful purpose.

6. On the other hand, learned State counsel has vehemently opposed the prayer made by the petitioner on the ground that the quantity of contraband recovered from the present petitioner was commercial in nature and the rigors of section 37 of the NDPS Act would apply against him. Apart from that, the police had followed the due process of law. Since the recovery was effected from the car, there was no need to comply with the provisions of NDPS Act. However, in the present case, the said provision was duly followed, while effecting the recovery from the petitioner and his co-accused. Learned State counsel further submits that one more case under NDPS Act has already been registered against the present petitioner.

7. From the record it is clear that 85 Kg of poppy husk was recovered from the petitioner and his co-accused and the said recovery is commercial in nature, as per the schedule appended to NDPS Act. Thus, the petitioner does not deserve the concession of bail and is ordered to be dismissed.

12.12.2023
hitesh

(N.S.SHEKHAWAT)
JUDGE

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