

CRM-M-29609-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

227

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Date of Decision : July 03, 2024

SHISHA SINGH

.....Petitioner

VERSUS

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARIPresent : Mr. H.S.Sandhu, Advocate
for the petitioner.

Mr. Bhupender Singh, DAG, Haryana.

KULDEEP TIWARI, J. (Oral)

1. Through the instant petition filed under Section 439 Cr.P.C. the petitioner prays for grant of regular bail in case FIR No.80 dated 27.3.2024 under Sections 17 and 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Pehowa, District Kurukshetra.

2. The instant FIR has been registered on the basis of a secret information, to the extent that the petitioner has planted opium in a *bara*. The raid was conducted and 606 plants of opium were found to be planted in the *bara*, surrounded by the Mustard plants. The plants were uprooted. By preparing a separate memo, they were taken into possession by the police party. The total weight of the plants comes out to be 29 kgs 600 grams.

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3. Learned counsel for the petitioner in the asking for the relief would submits that the alleged recovery which is effected from the present petitioner falls within the ambit of non-commercial quantity. He further submits that he has no concern whatsoever, with the *bara*, from where the plants were uprooted. There is no evidence with the prosecution to connect him with the alleged piece of land, upon which the opium plants were planted. He also submits that the petitioner was arrested on 27.03.2024 and has suffered sufficient incarceration and the trial is yet to begin.

4. This Court vide order dated 14.06.2024 had directed the State to file specific reply to the instant petition detailing therein, whether, the recovered contrabands falls within the ambit of small or commercial quantity, as well as the other incriminating evidence collected by the Investigating Agency to connect the present petitioner with the crime.

5. Today, the learned State counsel has filed reply dated 1.7.2024 by way of affidavit of DSP, Pehowa, District Kurukshetra.

6. The perusal of the reply reflects that the alleged contraband was sent to the FSL, Madhuban and the the chemical examination report has been received which is attached with the reply as Annexure R-2. As per the FSL report, the recovered contraband was declared as "Opium (Poppy) Plants". In para 10 of the reply, it was specifically mentioned that the alleged recovery of contraband falls within the ambit of non-commercial quantity. Para No.10 of the reply reads as under:-

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“That at the time of recovery the poppy plants were weighted which came to 29.600 kg. As per FSL report the recovered plants were identified as opium (poppy) plants and no opium was recovered from the said plants. Hence the recovery falls within the ambit of non commercial quantity.”

7. This Court has considered the submissions made by the learned counsel for the parties concerned and has gone through the entire case file.

8. Since, the alleged recovery falls within the ambit of non-commercial quantity and the petitioner has suffered incarceration of 3 months and 5 days as on today and is not involved in any other criminal case and also the fact that the trial is yet to begin and the conclusion of the same would take long, this Court deems it fit and appropriate to extend the benefit of regular bail to the petitioner. Therefore, the present petition is **allowed**.

9. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

10. However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

(KULDEEP TIWARI)
JUDGE

July 03, 2024
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Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No