



S. No.228

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

**CRM-M-44937 of 2025
Date of Decision:27.11.2025**

Ranjit Singh @ Gollu**.....Petitioner****Vs.****State of Punjab****.....Respondent****CORAM:- HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR****Present:-** Mr. Tanvir S. Grewal, Advocate for the petitioner.

Mr. Gorav Kathuria, DAG, Punjab.

Yashvir Singh Rathor, J. (Oral)

1. This is first petition filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of regular bail to the petitioner in case FIR No.59 dated 04.03.2025 registered under Sections 15, 18 & 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') (Section 29 of NDPS Act added later on) at Police Station Anti Narcotics Force (ANTF), District ANTF Wing, SAS Nagar.

2. Brief facts of the prosecution case are that on 04.03.2025, SI Balwinder Singh received secret information to the effect that Ranjit Singh @ Gollu – petitioner has taken some land of one Issar Singh on lease in which he has sown opium/ poppy husk but he does not have a licence to do so. Thereafter,



formal FIR under Sections 15 and 18 of the NDPS Act was registered and a raid was conducted near Cremation Ground, Village Jalan where petitioner – Ranjit Singh was found sitting. On asking, he disclosed that he has sown opium/ poppy husk in his field between mustard and cane crops. The plants were uprooted in the presence of petitioner and village Sarpanch Gurdeep Singh and total weight of the plants came out to 205 kg 620 grams which were sealed and taken into possession. Petitioner was arrested and after completion of investigation, final report was presented.

3. I have heard learned counsel for the parties and have perused the material placed on record.

4. Learned counsel for the petitioner contended that the petitioner has been falsely implicated. The field where the contraband was allegedly sown was neither owned nor possessed by the petitioner. Learned counsel further contended that the green poppy plant which is a growing plant has allegedly been recovered and it will grow till the stage of germination and harvesting, and thus, there is no measure of small quantity or commercial quantity for opium poppy. Learned counsel further contended that the offence for cultivating opium poppy would fall under Section 18(C) of the NDPS Act and due to this reason, opium poppy is not mentioned in the Table appended to the Act specifying the small and commercial quantities and the recovery of any quantity of opium poppy will fall under non-commercial quantity and rigors of Section 37 of the NDPS Act are not applicable. Learned counsel next contended that the petitioner is in custody since 04.03.2025. The challan has already been presented and the trial will take a long time to



conclude. As such, further detention of the petitioner is not required and he may be released on bail.

5. On the other hand, learned State Counsel has opposed the bail and argued that the recovered quantity falls within commercial quantity and petitioner cannot be released on bail unless and until the twin conditions mentioned in Section 37 of the NDPS Act are satisfied.

6. Before proceeding further, it will be appropriate to reproduce Section 2(xvii) of the NDPS Act which defines the term “Opium Poppy” as under:-

“opium poppy means--

- a) The plant of the species *Papaver somniferum* L; and
- b) The plant of any other species of Papver From which opium or any phenanthrene alkaloid can be extracted and which the Central Government may, by notification in the Official Gazette, declare to be opium poppy for the purposes of this Act.”

7. Section 18 of the NDPS Act prescribes the punishment in relation to cultivation or possession of opium poppy and opium which is reproduced as under:-

"18. Punishment for contravention in relation to opium poppy and opium--- Whoever, in contravention of any provision of this Act or any rule or order made for condition of license granted thereunder, cultivates the opium poppy or produces, manufactures, possesses, sells, purchases, transports, imports inter-state, exports inter-state or uses opium shall be punishable---



a) Where the contravention involves small quantity, with rigorous imprisonment for a term which may extend to (one year), or with fine which may extend to ten thousand rupees, or with both;

b) Where the contravention involves commercial quantity, with rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years, and shall also be liable to fine which shall not be less than one lakh rupees which may extend to two lakh rupee.

Provided that the court may, for reasons to be recorded in the judgment, impose a fine exceeding two lakh rupees;

c) In any other case, with rigorous imprisonment which may extend to ten years and with fine which may extend to one lakh rupees".

8. Table in the NDPS Act describes small, inter-mediate and commercial quantity of various contrabands which fall under the afore-said categories but there is a Note at the end of the Table and relevant portion of the Note is reproduced as under:-

“3) “Small Quantity” and “Commercial Quantity” with respect to cultivation of opium poppy is not specified separately as the offence in this regard is covered under clause (c) of Section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985.”

9. A perusal of the afore-said note shows that small quantity and commercial quantity with respect to cultivation of opium poppy is not specified



separately as the offence in this regard is covered under clause (c) of Section 18 of the NDPS Act, 1985. Section 18(c) of the NDPS Act as reproduced above, provides that in any other case, the Court may impose rigorous imprisonment which may extend to ten years and with fine which may extend to Rs.1 lakh, meaning thereby, the offence relating to cultivation of opium poppy shall fall under Section 18(c) which prescribes maximum imprisonment upto ten years besides fine upto Rs.1 lakh and it will thus not fall under commercial quantity. A co-ordinate Bench of this Court in Law Finder Doc Id #2035051 – **Avtar Singh Vs. State of Punjab**, has held that there is no measure of small or commercial quantity for opium poppy and recovery of green poppy plants falls under Section 18(c) of the NDPS Act and hence, it falls within the non-commercial quantity and the bar under Section 37 of the NDPS Act shall not apply. To the same effect is the law laid down by Madhya Pradesh High Court in Law Finder Doc Id #2637142- **Vishram Vs. The State of Madhya Pradesh** and by co-ordinate Bench of this Court in Law Finder Doc Id # 2631546 – **Harwinder Singh @ Binder Vs. State of Punjab**.

10. In the present case also, the petitioner has violated the provision of Section 18(c) of the NDPS Act and the recovery of opium poppy has to thus fall within the ambit of non-commercial quantity and bar under Section 37 of the NDPS Act will not apply. The petitioner is in custody since 04.03.2025. Challan has already been presented after completion of investigation. The trial will take sufficiently long time to conclude and as such, no useful purpose will be served by detaining the petitioner in custody anymore and he deserves to be released on bail.



11. Having regard to the aforesaid factual position, but without commenting anything upon the merits of the case, the petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bond and surety bond to the satisfaction of learned Trial Court/Duty Magistrate concerned, on usual terms and conditions.

(Yashvir Singh Rathor)
Judge

November 27, 2025
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Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No