

**In the Court of Shri Jagdeep Singh Marok,
Judge Special Court, Sangrur.**
(Unique Identification Number-PB0074)

B.A.no. 987 dated 02.08.2018.
Regn. No.1929/2018
CNR No.PBSG01006170-2018
Decided on ---- 06.08.2018.

Raghbir Singh son of Jaganjeet Singh alias Jaggu r/o Phalera, District
Sangrur P.S. Dharamgarh (now confined in District Jail Sangrur).

.....Accused/Applicant

Versus

State

F.I.R.No. 90 dated 18.05.2018,
Under Sections : 15/61/85 NDPS Act
Police Station City Sunam.

Bail application U/s 439 Cr.P.C.

Present: Shri Rajinder Singh Toor, Adv. counsel for the
accused/applicant.

Shri Sanjeev Batra, learned P.P. for the State.

ORDER :

1. Heard on the application having been moved by the applicant Raghbir Singh, aforesaid, seeking grant of bail to him in view of the provisions of Section 439 of the Code of Criminal Procedure wherein it has been alleged that he is in custody since the date of arrest i.e. 18.5.2018 and nothing has been recovered from him and alleged recovery has been falsely planted against the applicant. Police of Police Station Sadar Sunam is bent upon to arrest the applicant in this present case. He

is innocent.

2. Pursuant to the notice given to the State, learned P.P appeared and contested the claim of the applicant with the plea that 60 kg of poppy husk in this case was recovered. So the submission of learned Public Prosecutor is that in view of the quantity of the contraband having been recovered, applicant is not entitled to the grant of concession of bail.

3. I have given thoughtful consideration to the respective submissions of both sides and gone through the documents on record.

4. In this case, 60 Kg of poppy husk has been recovered and the quantity having been recovered from the possession of the accused is commercial in its nature and in view of the bar under the provisions of Section 37, the applicant is not entitled to the grant of concession of bail in this case, as there is nothing substantive on record at this stage, to infer that the applicant would not indulge again in the commission of the alleged offence. Moreover, even at this stage, it is not ascertainable that the applicant was not involved in the commission of the alleged offence. So, under these circumstances, reliance can be placed upon the observations made in **Jaspal Singh Gill Vs. State of Punjab AIR 1984 Supreme Court 1503**, wherein it has been laid down as under :-

That while granting the bail in non bailable offence, the following factors amongst others are to be taken into consideration,

- i) the nature and gravity of the offence;
- ii) the reasonable probability of the presence of the accused to be secured;

iii) the possibility of the indulgence of the accused in tampering with the evidence of the prosecution;

iv) Larger interest of the State or public.

So, applying these considerations and keeping in view the facts and circumstances of the case and in view of the fact that the recovery alleged to have been effected in this case is itself commercial in nature, applicant Raghbir Singh does not deserve the concession of bail. Resultantly, the application having been moved by the applicant/accused, Raghbir Singh, being without any substance is, hereby, dismissed. The application stands disposed of without expressing any opinion on the merits of the case. File be consigned to the record room.

Pronounced in open Court

Dated : 06.08.2018.

Shama JW-II

(Jagdeep Singh Marok),

Judge, Special Court

Sangrur.

(Unique Identification Number-PB0074)