

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

CRM-M-19827-2016

Date of decision:07.06.2016

Nonihal Singh @ Nihal Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: Hon'ble Mr. Justice Darshan Singh

Present: Mr. Ajay Arora, Advocate
for the petitioner.

Darshan Singh, J.(Oral)

As per the prosecution allegations 10 grams heroin has been recovered from the possession of the petitioner Nonihal Singh @ Nihal Singh on 3.5.2016. He was arrested on the same day. Since then he is in custody. His bail application has been dismissed by learned Special Court, Fatehabad. Hence, this petition.

Learned counsel for the petitioner contended that the quantity of heroin allegedly recovered does not fall within the definition of commercial quantity. It is slightly more than the small quantity. The petitioner is in custody for the last more than one month and is no longer required for the purpose of investigation as he has already been remanded to judicial custody. He contended that his bail application has been declined simply on the ground that three other cases under the Indian Penal Code are pending against the petitioner and his co-accused has not been arrested.

Learned State counsel contended that as the petitioner is involved in three other criminal cases and his co-accused is yet to be arrested, he does not deserve concession of bail.

I have duly considered the aforesaid contentions.

This fact has not been disputed at bar that the quantity of heroin allegedly recovered from the petitioner does not fall within the definition of commercial quantity and consequently the provisions of Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the Act') are not applicable to the case in hand. The petitioner is in custody for the last more than one month and is no longer required for the purpose of investigation. This fact is not disputed that the petitioner was not involved in any other case under the provisions of the Act. Challan has not been presented so far. Thus certainly the conclusion of trial will take time. The further detention of the petitioner in jail will not serve any purpose. So, the present petition is hereby allowed. Petitioner Nonihal Singh @ Nihal Singh is ordered to be released on bail on furnishing bail bonds to the satisfaction of learned Chief Judicial Magistrate/Duty Magistrate, Fatehabad.

07.06.2016
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(DARSHAN SINGH)
JUDGE