

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

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CRM-M-6170-2019 (O & M)
Date of Decision:22.04.2019

Rohit Bawa

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

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

Mr. Kirat Singh Sidhu, DAG, Punjab.

MANOJ BAJAJ, J.(ORAL)

Petitioner-Rohit Bawa has filed this petition under Section 439 of the Code of Criminal Procedure for grant of regular bail in case FIR No.217 dated 04.11.2018, under Section 21 of the NDPS Act, registered at Police Station, Kartarpur, District Jalandhar Rural.

According to the prosecution, the police party was on a patrol duty when a car bearing registration No.PB-35-Q-1363 was seen coming from the side of Kishangarh. The said car was stopped and was being driven by Rohit Bawa (petitioner). The other person travelling with him was Sajjan. It was noticed by the police that Sajjan was carrying a red colour bag on his thighs. It was suspected that some intoxicant material was being carried by the accused persons. After completion of formalities, the search

was effected in the presence of gazetted officer namely, Digvijay Kapil,

DSP Sahib, Sub Division Kartarpur. It was found that the bag held by Sajjan contained 500 gms of heroin.

Learned counsel for the petitioner contends that no recovery was effected from the petitioner and the investigation of the case is complete as the challan stands filed before the Court. According to him, further custody of the petitioner is not justifiable. It is further submitted that FIR itself contains the fact that nothing could be recovered from petitioner.

On the other hand, the bail application is opposed by the learned State counsel on instructions from ASI Baljinder on the ground that 500 gms of heroin was recovered from the bag, which falls under the category of commercial quantity. However, it is not disputed by him that in the recovery memo the recovery of contraband is attributed to co-accused Sajjan only. It is also not disputed that the petitioner is not involved in any other case much less of similar nature.

Considering the above background and the case set up by the prosecution and the fact that the trial is likely to consume some time, further custody of the petitioner may not be justifiable. Therefore, without meaning any expression on the merits of the case, the petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

22.04.2019

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(MANOJ BAJAJ)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No