

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

Sr. No.260

CRM-M-24813-2019

DECIDED ON: December 09, 2019

NEHA

..PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

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

Mr. Gaurav Bansal, AAG, Haryana.

SUDHIR MITTAL, J. (ORAL)

The petitioner seeks grant of regular bail in case FIR No. 106 dated 05.02.2019 registered at Police Station City, District Panipat under Section 21 of NDPS Act, 1985.

2. Learned counsel for the petitioner submits that the petitioner has been in custody for more than 09 months. The examination of PWs has not yet started. Thus, the trial is not likely to be concluded at an early date. Recovery from the petitioner is 300 grams of heroin and according to the FSL report, 47.5% of the contraband recovered from the petitioner was found to be 'Morphine'. Thus, the recovery of the petitioner is of non-commercial quantity.

3. Custody certificate dated 06.12.2019 prepared by Sh. Sanjay Bangar, DSP-2, Deputy Superintendent, District Prison, Karnal has been filed in Court. The same is taken on record. According to this certificate,

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the petitioner has undergone actual custody of 09 months and 29 days and there is no other criminal case pending/decided against him.

4. Learned State counsel opposes the prayer for regular bail on the ground that commercial quantity was recovered from the petitioner.

5. The issue regarding whether the total weight of the contraband is to be taken into account for determining the commercial nature or otherwise is pending adjudication before a Larger Bench of the Supreme Court. Thus, I do not deem it appropriate to opine on whether the recovery made was of commercial quantity or not. However, keeping in view the custody period of the petitioner as well as the fact that the trial is not likely to be concluded at an early date, I deem it appropriate to grant regular bail to the petitioner. The petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court concerned.

December 09, 2019

Ankur

**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No