

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

**CRM-M No.36336 of 2019 (O&M)
Date of Decision: 03.10.2019**

Anand

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Rakesh Kumar Lathwal, Advocate for the petitioner.

Mr. Arun Beniwal, DAG, Haryana for the respondent/State.

MAHABIR SINGH SINDHU, J. (Oral)

Present petition has been filed under Section 439 Cr.P.C. for grant of bail pending trial to the petitioner in case bearing FIR No.418 dated 21.10.2018, under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*), registered at Police Station Sadar Gohana, District Sonapat.

Contentends that as per the allegations of the prosecution, 290 grams of *Charas* was recovered from the petitioner and that is less than commercial quantity. Further contends that petitioner is in custody since 21.10.2018 and charges in this case have already been framed on 20.05.2019, but despite granting two opportunities, none of the prosecution witness has been examined, rather custody of petitioner is unnecessarily being prolonged by the prosecution.

Learned State Counsel, on instructions from ASI Ram Niwas, has acknowledged the factum of arrest of the petitioner as well as framing of the charges. Also acknowledged that out of total 09 prosecution witnesses,

none has been examined till date. Learned State Counsel further not disputed that despite availing two opportunities by the prosecution, unfortunately, none has turned up, but opposed the bail.

Heard both sides and perused the paper-book.

Petitioner is in custody since 21.10.2018 and after investigation, challan in this case has already been presented. Even the charges were framed on 20.05.2019 and despite granting two opportunities to the prosecution, out of total 09 prosecution witnesses, none has been examined. Since trial is likely to take long time and moreover, recovery is non-commercial in nature, thus, embargo of Section 37 of the NDPS Act would not be applicable in this case.

In view of the above, without expressing any opinion on the merits of the case, the present petition is allowed. Petitioner be admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court/Duty Magistrate concerned.

The above observations may not be construed as an expression of opinion on the merits of the case.

It is clarified that in case there is any recurrence on the part of the petitioner, State of Haryana would be at liberty to move an appropriate application for recalling of this order.

October 03, 2019

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(MAHABIR SINGH SINDHU)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>