

Sr. No.208

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

**CRM-M-2193 of 2019 (O&M)
DATE OF DECISION : 07.09.2020**

Ameca Ofer

...Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. A.S. Gill, Advocate,
for the petitioner.

Mr. Saurabh Khurana, DAG Punjab.
(Presence marked through video conference)

ARUN MONGA, J. (ORAL)

1. The petitioner is seeking regular bail in FIR No. 203 dated 01.09.2018, registered under Section 21 of Narcotic Drugs and Psychotropic Substances Act, 1985, Police Station Samrala, Police District Khanna, District Ludhiana.

2. Per FIR, on 01.09.2018, while on routine checking, a police party nabbed the petitioner, a Nigerian National, on the basis of suspicion as he tried avoiding the check post. On his consent, a Gazetted Officer was called on the spot and from his personal search, 300 grams of heroine was recovered. Petitioner was arrested.

3. Learned counsel submits that the petitioner is in custody since 01.09.2018. He is a Nigerian citizen and all the proceedings were reduced into writing in Punjabi language. According to him, there is violation of

mandatory provisions of NDPS Act. He further submits that investigation is over, challan has been filed, but there is no headway in the trial and especially in the pandemic scenario, there is no likelihood of trial concluding in near future. He relies on an order dated 29.01.2020 passed by Coordinate Bench of this Court in CRM-M-3074 of 2020 (Obiji Khukwu Maje Vs, State of Punjab) to contend that, in somewhat similar circumstances, the petitioner/ accused therein, who too was a Nigerian National and apprehended by the police of same police station Samrala, with same quantity of heroin, was granted the benefit of regular bail, after he had spent about one year three months in custody. Whereas the petitioner herein, has already undergone incarceration of more than two years.

4. On the other hand, learned State counsel opposes the bail plea. He submits that petitioner is involved in one more case under Prisoners' Act. On a query of the Court, he admits that investigation is over and presently there is no headway in the trial. He did not dispute that the petitioner is in custody since 01.09.2018.

5. There is no headway in the trial and is not likely to commence or conclude anytime soon due to covid-19 pandemic, as a result of which Courts are working with restrictions and taking up only urgent matters. The submissions of learned counsel for the petitioner are to be adjudicated at the trial. On the ground of parity with Obiji's case (supra), the petitioner is entitled to be released on bail. Considering the overall scenario, without commenting on the merits of the case, the petition is allowed. Petitioner shall be released on bail on his furnishing bail bonds and local surety bonds to the satisfaction of concerned Chief Judicial Magistrate/ Duty Magistrate, as the case may be. It is however, made clear that in case the petitioner is

found involved in any other case of similar nature while on bail, the prosecution shall be at liberty to seek cancellation of his bail.

September 07, 2020
Jiten

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No