

**(Proceedings conducted through video conferencing on account of
Covid-19 Pandemic)**

CRM-M-7811-2020

Date of Decision: 16.09.2020

**BHUPINDER SINGH @ MOTTA
VS.**

... PETITIONER

STATE OF PUNJAB

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Ashish Aggarwal, Advocate
for the petitioner.

Mr. H.S.Multani, AAG, Punjab.

VIVEK PURI, J.(ORAL)

Through instant petition, the petitioner is seeking regular bail in case FIR No. 102 dated 23.06.2019 under Section 21 of the Narcotics Drugs and Psychotropic Substances Act, 1985 (for brevity 'the Act') registered at Police Station Sadar Tarn Taran, District Tarn Taran.

Custody certificate has been placed on record.

Learned counsel for the petitioner has also placed on record copy of judgment dated 26.11.2018 vide which the petitioner has been acquitted in the case bearing FIR No. 04 dated 05.01.2014 under Section 22 of the Act registered at Police Station Sadar, Tarn Taran.

As per the version of the prosecution, 270 grams of heroine was recovered from the possession of the petitioner.

The arrest of the petitioner was effected on 23.06.2019.

Reliance has been placed upon the judgment of this Court in ***CRM-M-40876 of 2017 (Vishal Shah Versus State of Punjab)*** decided on 04.04.2018. In the said decision quantity to the extent of 270 grams of

heroine was construed to be marginally over and above the non-commercial quantity. Moreover, in the judgment titled as **Jagjit Singh @ Jagga Gill and others vs. State of Punjab**, 2020 (2) RCR (Criminal), 612, it has also been laid down that the Bar under Section 37 in case of commercial quantity cannot be termed to be absolute in nature and the departure can be made if the alleged recovery is marginally higher than the commercial quantity.

The investigation of the case is stated to be complete. The petitioner is not stated to be involved in any other case under the NDPS Act. The petitioner has been acquitted in the earlier case registered against him. It has been further stated that out of 10 witnesses, only 02 witnesses have been examined so far and the trial of the case is not proceedings on account of Covid-19 Pandemic.

Considering the above and the fact that the trial is likely to consume sometime, further detention of the petitioner may not be justified. Therefore, without making any expression of opinion on the merits of the case, it is ordered that the petitioner be released on bail subject to his furnishing requisite bail/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

The petition stands allowed.

16.09.2020
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(VIVEK PURI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No