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

CRM-M No.8035 of 2019

Date of Decision: 28.02.2020

Mandir Singh

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Bikramjeet Singh, Advocate
for the petitioner.

Mr. Ramandeep Sandhu, Sr. DAG, Punjab

RAJ MOHAN SINGH, J.(Oral)

Petitioner seeks grant of regular bail under Section 482 Cr.P.C in case bearing FIR No.0093 dated 31.10.2019, registered under Sections 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Joga, District Mansa.

Learned counsel for the petitioner submitted that petitioner was apprehended along with transparent bag containing intoxicants i.e. Tablets and vials which were clearly visible with naked eyes. On seeing the police party,

the petitioner tried to turn back and threw the polythene bag. On suspicion, he was apprehended by the police and on being asked he disclosed his name as Mandir Singh. On search some strips of intoxicant tablets and vials were found scattered in which 15 intoxicant vials make ONEREX each vials containing 100ml were found. Batch numbers vis-a-vis, the name of manufacturer were also found. Further checking of the bag led to recovery of 25 strips of carisoma intoxicating tablets, each strips containing 10 tablets.

Learned counsel for the petitioner further submitted that the petitioner has no antecedent history of criminal activity, he is not involved in any other case. Presence of such contraband in a transparent bag would make the case debatable and ex facie unbelievable because in any case a person in the trade of contraband would not carry any such transparent bag so as to expose the contraband in public domain. Factum of the contraband being present in a transparent bag is not in dispute, nor it is found that the contraband was wrapped in some opaque wrapper, thereby making the same to be invisible even in a transparent bag.

Learned counsel for the petitioner has placed reliance upon ***Binder Kaur @ Goga Vs. State of Punjab*** in CRM-M-4584 of 2020 decided on 06.02.2020 on the

aforesaid issue wherein it has been observed that the person in trade of such type of contraband would not do the trading in a transparent bag. In the instant case, since there is no such criminal history of the petitioner being involved in any narcotic trade, therefore, petitioner seeks concession of regular bail even against the rigour of Section 37 of NDPS Act.

Per contra Learned State Counsel on instructions from HC Iqbal Singh states that even if the bag is found to be transparent, the petitioner cannot take benefit of the same at this stage and rigour of Section 37 of NDPS Act would apply. At the time of consideration of regular bail, there are so many factors to be taken into consideration. Possibility of influencing the witness is one of the elementary factor and past history of the accused.

Since the petitioner is not having any such past history and involvement in any criminal activity under NDPS, therefore, prima facie this Court cannot debar the petitioner from availing concession of regular bail on prima facie considerations.

Challan has not been presented so far, despite the custody of the petitioner for more than 4 months.

Trial in any case may take some time in conclusion after filing of the challan.

Keeping in view the aforesaid facts and without

forming any opinion on the merits of the case, I deem it just and appropriate to release the petitioner on regular bail.

In view of above, the present petition is allowed and the petitioner is ordered to be enlarged on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned.

Nothing expressed hereinabove shall be construed to be an opinion on merits of the case.

February 28, 2020	(RAJ MOHAN SINGH)
pry	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No