

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-10034-2020

Date of Decision: August 28, 2020

Oscard Fredrique Mitti

...Petitioner

Versus

State (U.T.Chandigarh)

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Amit Sharma, Advocate,
for the petitioner.

Mr. Amit Kumar Goyal, Advocate,
for U.T.Chandigarh.

MANOJ BAJAJ, J. (Oral)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail, pending trial in case FIR No.372 dated 28.11.2019, under Section 21 N.D.P.S.Act, 1985 and Section 14 of Foreigners Act, registered at Police Station, Sector 17, Chandigarh. The petitioner is in custody since his arrest on 28.11.2019.

As per the allegations in the FIR, on 28.11.2019, the police party was present in Sector 17, Chandigarh for patrolling. At about 3.45 p.m., when they reached at fire station in front of T.point Mini Secretariat, a boy was seeing coming from the back side of the bus stand, who, on seeing them, got perplexed and starting walking towards Sector 18. On suspicion, when apprehended, he tried to throw a polythene out of right pocket of his pant. On enquiry, he disclosed his name as Oscard Fredrique Mitti, and upon checking of polythene, 100 grams of heroin was recovered from it. On these broad allegations, the above FIR was registered.

Learned counsel for the petitioner contends that recovery of 100 grams of heroin allegedly made from the petitioner would fall within the ambit of non-commercial quantity and, therefore, further custody of the petitioner may not be necessary, particularly when he is not involved in any other case of similar nature. According to him, the investigation of the case is complete and the final report stands filed on 21.01.2020. He prays for grant of regular bail to the petitioner, during the pendency of the trial.

On the other hand, learned counsel appearing on behalf of U.T.Chandigarh, assisted by ASI Pardeep Kumar, Crime Branch, has opposed the prayer on the ground that the petitioner arrived in India on study visa and indulged in the illegal activities. According to him, the visa of the petitioner also expired and there is every likelihood that he may commit the similar offence. However, it is not disputed by him that the quantity recovered from the petitioner is not commercial in nature. He further submits that the charges were framed in February, 2020. However, out of total 15 prosecution witnesses, no one has been examined so far.

Considering the above background, custody of the petitioner and the fact that the trial is likely to consume considerable time to conclude as the country continues to be in the throes of global pandemic, namely, COVID-19 and the U.T. Administration has also imposed various restrictions to curb its spread, this Court does not find any reason to decline the prayer. The petitioner after his arrest on 28.11.2019, is presently confined in judicial custody, therefore, his further detention behind the bars may not be justified.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail

subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, U.T.Chandigarh.

The petition is allowed.

August 28, 2020
ramesh

(MANOJ BAJAJ)
JUDGE

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