

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

Criminal Misc.-M-10099 of 2020
Date of Decision: October 07, 2020

Balwant Singh @ Banta

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Avtar S. Khinda, Advocate,
for the petitioner.

Mr. N.K.Banka, DAG, Punjab.

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.102 dated 23.08.2018, under Section 22 N.D.P.S.Act, 1985, registered at Police Station, Subhanpur, District Kapurthala. The petitioner is in custody since his arrest on 19.01.2019.

As per the allegations in the FIR, on 23.08.2018, ASI Kulwant Singh along with other police officials was going towards village Dograwal Hamira for patrolling and in search of bad elements and when the police party was about to approach T-point main G.T.Road, then one person was seen coming from G.T.Road. He was having in his hand some substance wrapped in polythene envelope and on seeing the police party, he became perplexed and threw the polythene envelope on the road and turned. ASI along with police officials apprehended him and on enquiry, he disclosed

his name as Balwant Singh @ Banta son of Jaspal Singh. Before the search of polythene envelope, efforts were made to join independent witness, but no body could be joined. On search of polythene envelope, intoxicating substance weighing 255 grams was recovered. On these broad allegations, the above FIR was registered.

Learned counsel for the petitioner contends that 255 grams of heroin allegedly recovered from the petitioner also included the weight of the polythene, and the quantity is marginally above the non-commercial quantity, i.e., 250 grams and only one witness has been examined so far out of the total twelve prosecution witnesses. It is further contended that as the petitioner is not involved in any other case, therefore, his further custody in the present case may not be necessary. Learned counsel prays for grant of bail to the petitioner, during the pendency of the trial.

On the other hand, learned State counsel assisted by ASI Rajinder Singh has opposed the prayer on the ground that the recovered contraband falls within the ambit of commercial quantity and, therefore, he does not deserve the concession. However, it is not disputed by him that only one witness has been examined by the prosecution so far, and except for this case, he is not involved in any similar case.

After hearing the learned counsel for the parties, this Court finds that after completion of investigation of the case, the trial has commenced, but it is progressing at a slow pace. This Court is cognizant of the fact that the outbreak of pandemic COVID-19 in the region may delay the conclusion of trial. The petitioner is presently confined in judicial custody since 19.01.2020 and his further detention may not be necessary for any useful purpose, therefore, this Court does not find any reason to decline

the prayer.

Resultantly, without meaning any expression of opinion on the merits of the case, the petition is allowed and 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, Kapurthala.

October 07, 2020
ramesh

(MANOJ BAJAJ)
JUDGE

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