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

CRM-M-10022 of 2020

Date of decision: July 14, 2020

Billu Singh @ Gaggi

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Chanderhas Yadav, Advocate for the petitioner.

Mr. Deepak Sabherwal, Additional AG Haryana.

MAHABIR SINGH SINDHU, J

Present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (for short 'Cr. P.C.') for grant of bail pending trial to the petitioner, in FIR No.293 dated 26.11.2019, under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), registered at Police Station Kalanwali, District Sirsa.

As per prosecution case, petitioner was apprehended with 15 grams of Heroin contained in a glazed paper without having any permit or licence.

Contends that the petitioner is in custody since 26.11.2019 and as per the prosecution case, 15 grams of Heroin was recovered from him. Also contends that after investigation in the matter, challan has already been presented and even after framing of charges, trial is going on; but out of total 20 prosecution witnesses, none has been examined. It

is also the contention that there is no other criminal case pending against the petitioner.

The above factual position is duly acknowledged by the learned State counsel, on instructions from the police official, but submitted that petitioner is facing one case under Section 307 IPC.

In response thereto, learned counsel for the petitioner has pointed out that petitioner has already been released on bail in case under Section 307 IPC and reference, in this regard, is made to the order dated 26.12.2017 (P-4).

Heard both sides and perused the paper-book.

Concededly, recovery from the petitioner is less than commercial, i.e. 15 grams of Heroin, thus, embargo of Section 37 of NDPS Act would not be attracted in this case. Since the trial has been held up on account of pandemic and likely to take sufficient long time, therefore, further incarceration of the petitioner would not serve any purpose.

In view of the above, this petition is allowed. Petitioner is ordered to be released on bail, in this case, on his furnishing adequate bail bonds and surety bonds to the satisfaction of learned trial Court/Duty Magistrate concerned.

The above observations may not be construed as an expression of opinion on the merits of the case.

Petitioner shall fully co-operate with learned trial Court without seeking any unnecessary adjournments.

It is also clarified that in case, there is any recurrence on the

part of the petitioner, State would be at liberty to move an application for recalling of this order.

(MAHABIR SINGH SINDHU)
JUDGE

July 14, 2020
mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No