

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

**CRM-M No.12060 of 2020 (O&M)
Decided on: 08.05.2020**

Arjun @ Kaalu

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. R.S. Sekhon, Advocate
for the petitioner (through video conferencing)

Mr. H.S. Grewal, Addl. A.G., Punjab
(through video conferencing)

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.34 dated 12.03.2020, for offence punishable under Section 21/61 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') registered at Police Station Sadar Ferozepur, District Ferozepur.

Counsel for the petitioner has argued that as per the allegations in the FIR, the police party headed by ASI Baldev Raj, who is also the complainant in the case noticed that a motorcycle was coming and on seeing the police party, the driver of the motorcycle became perplexed and the person who was sitting on the pillion rider seat has thrown a black polythene bag on the road and the Heroin spread over the metaled road. Thereafter, the said ASI collected the

Heroin and put the same in a polythene bag and on weighing it came to 20 gms. It is further stated in the FIR that the driver of the motorcycle informed his name as Arjun i.e. the petitioner whereas the person who was on the pillion rider told his name as Sandeep @ Zora.

Counsel for the petitioner has further argued that even as per the allegations in the FIR, the polythene bag was thrown by the co-accused namely Sandeep @ Zora and it is also stated in the FIR that since the recovery of Heroin is small, therefore, the Magistrate or the Gazetted Officer was not called at the spot. It is also submitted that there is no such exemption granted under Section 50 of the NDPS Act and therefore, it will be a debatable issue to be decided during the course of trial, whether the proper procedure was followed or not as no second Investigating Officer was called at the spot.

Counsel for the State has not disputed the factual position, however, has argued that the petitioner is involved in one more FIR under Section 307 IPC but is not involved in any other case under the NDPS Act.

Without commenting anything on merits of the case, considering the submissions made by counsel for the parties and the allegations in the FIR as noticed above and also in view of the fact that the petitioner is not involved in any other case under the NDPS Act; the custodial interrogation of the petitioner is not required and the conclusion of the trial will take long time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

08.05.2020
yakub

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No