

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

**CRM-M-12419-2020
Decided on: 15.05.2020**

Rakesh

.... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

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

Mr. Pardeep Chahar, AAG, Haryana.

MAHABIR SINGH SINDHU, J (ORAL)

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.837 dated 06.12.2019, under Sections 18 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'Act'), registered at Police Station Civil Lines Karnal, District Karnal.

Brief facts of the case are that on 06.12.2019, police party headed by EASI Ashok Kumar was patrolling on a private car near Mini Secretariat, Sector-12 Road, Karnal, then one informer met them and informed that Sukhwinder Singh @ Sukha son of Bahadur Singh and another person named Ganga Ram are in the habit of selling opium and they have come to sell the opium in the park near Nirmal Kutia, Karnal. The informer also told that he will signal the police party at the appropriate time. After receipt of this information, intimation was sent to the police station. Immediately, accused came there. Both were holding the Pitthu bag from its strings and they were apprehended by the police leading to the recovery of opium weighing 1 kg 100 gms from the bag.

It is contended by learned counsel for the petitioner that petitioner is neither named in the FIR; nor any recovery was effected from him. Also contends that as per the allegations of the prosecution, the recovery of contraband i.e. 1 kg and 100 gm of opium was effected from Sukhwinder Singh @ Sukha and Ganga Ram and they nominated the petitioner on 11.12.2019, i.e. 5 days after registration of the FIR.

Also contends that there is no other criminal case pending against the petitioner and after investigation, the challan has already been presented and the trial is pending for 29.05.2020.

The above factual position is duly acknowledged by learned State counsel, on instructions from ASI Sukhwinder Singh, but opposed the bail on the premise that the petitioner has been nominated as accused under Section 29 of the Act.

Heard both sides and perused the paper book.

Concededly, the petitioner is in custody since 11.12.2019 and he was neither named in the FIR; nor any recovery was effected from him. Even there is no other criminal case pending against the petitioner and investigation is already over. Even otherwise, the recovery of contraband is less than the commercial quantity, i.e. 1 kg and 100 gm opium and that too from the co-accused, thus further incarceration of the petitioner would not serve any purpose.

Consequently, the petition is allowed. Petitioner is ordered to be released on bail on his furnishing bail bonds/ surety bonds to the satisfaction of the CJM/ Duty Magistrate, concerned.

However, it is made clear that above observations may not be construed as an expression of opinion on the merit of the case pending before learned trial Court.

(MAHABIR SINGH SINDHU)

JUDGE

15.05.2020

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