

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

Sr. No.223

**Crl. Misc. No.M-13276 of 2020 (O&M)
DATE OF DECISION: 30.09.2020**

SANDEEP SINGH @ SONU

..PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

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

Mr. Ajay Pal Singh Gill, DAG, Punjab.

SUDHIR MITTAL, J. (ORAL)

The petitioner seeks grant of regular bail in case FIR No. 318 dated 14.12.2019 registered at Police Station City Tarn Taran, District Tarn Taran, under Sections 21 & 29 of NDPS Act, 1985.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated. Provisions of Section 50 of NDPS Act, 1985 were not complied with at the time the alleged recovery was effected as the alleged recovery was not effected in the presence of a Gazetted Officer. The petitioner has been in custody for almost six months now and the trial is not likely to be concluded at an early date as even charges have not been framed. Thus, the petitioner may be granted regular bail.

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Custody certificate dated 30.09.2020 has been submitted in Court. The same is taken on record. According to this certificate, the petitioner has undergone actual custody of 05 months and 29 days and there are two other cases under the NDPS Act, 1985 pending against the petitioner. Learned State counsel argues that the case being one of chance recovery, Section 50 of NDPS Act, 1985 could not have been complied with.

Learned counsel for the petitioner states that he has instructions to say that in FIR No.184, dated 22.10.2018, the petitioner has already undergone sentence of one month. In FIR No.120, dated 27.06.2019, the petitioner has been released on default bail as challan has not been presented as yet.

A perusal of the FIR shows that the accused persons were allegedly exchanging polythene bags when a police party came upon them. They tried to run away but were nabbed by the police. The polythene bags were thrown on the ground and on being asked a co-accused revealed the contents to be '*heroin*'. Under the circumstances, the police should have summoned a Gazetted Officer before conducting further search and recovery. The same having not been done, the petitioner is entitled to argue that he has been falsely implicated. Moreover, the trial is not likely to be concluded at an early date as even charges have not been framed. The petitioner has been in custody for almost six months. There is one more pending case under the NDPS Act, 1985 against the petitioner as he has undergone the sentence in the second case, but he is on default bail in the

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said case, no challan having been presented till date. Thus, he deserves to be granted regular bail.

Accordingly, the petition is allowed and the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

Crl.Misc.No.11599-2020

To be listed on 12.10.2020 for payment of fees.

30.09.2020

Ankur

**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No