

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

**CRM-M-13752 OF 2020
DATE OF DECISION : 14.07.2020**

Amritpal Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Vipul Jindal, Advocate,
for the petitioner.

Mr. Rana Harjasdeep Singh, DAG, Punjab.

(Presence marked through video conference)

ARUN MONGA, J. (ORAL)

The petitioner is seeking regular bail in case FIR No.85 dated 07.09.2019 under Section 21/25/29 of NDPS Act registered at Police Station Special Task Force, STF Wing, Border Range, Amritsar.

2. As per allegations in the FIR, which has been registered on the basis of secret information received by local rank ASI Karamjit Singh. Secret information was that petitioner along with one Gurbavittar Singh @ Sai and Kulbir Singh are dealing in smuggling of heroine and if raid is conducted, they can be caught red handed. Accordingly, raid was conducted. On seeing the police party, two persons who were riding/sitting on their respective motorcycles, tried to escape. One of them escaped. However, the other one was caught by the police, who disclosed his name as Kulbir Singh @ Soni. DSP Sikander Singh, being Gazetted Officer, was also joined in the proceedings. Rajinder Singh was also joined as independent witness from public. In their presence, personal search of Kulbir Singh was conducted and from the right

hand pocket of his trouser, 150 gms of heroin was recovered. Kulbir Singh disclosed them that the said heroin was given to him and Amritpal Singh (petitioner herein) for the purpose of sale by Gurbavittar Singh @ Sai from the store room made in his house. On the disclosure statement of Kulbir Singh, the petitioner herein was arrested.

3. Learned counsel for the petitioner contends that petitioner has been falsely implicated in the case as neither he was arrested at the spot nor anything was recovered from him. He is in custody since 19.12.2019.

4. Notice of motion.

5. Mr. Rana Harjasdeep Singh, DAG, Punjab, who has joined the proceedings on service of advance copy of the petition, appears and accepts notice on behalf of State of Punjab.

6. On a query of the Court, learned State counsel submits that no contraband was though recovered from the petitioner but the motorcycle recovered from belongs to co-accused Kulbir Singh. The same was being used by the petitioner at the time of arrest of co-accused Kulbir Singh, when the petitioner managed to run away on the said motorcycle. Effectively, what emerges is that 150 gms of contraband was recovered from the co-accused Kulbir Singh, who as per allegations in the FIR, was travelling on a separate motorcycle when the petitioner managed to slip away.

7. Be that as it may, the fact remains that as per prosecution version, though no contraband was recovered from the petitioner, but during his custodial interrogation, he made confession of possession 150 gms of contraband by the co-accused Kulbir Singh. The sanctity of the said custodial confession as well as the prosecution version is a matter of trial and the same cannot be established at this stage.

8. Challan has already been filed in the present case. No further custodial interrogation of the petitioner is required. Given that the alleged contraband recovered from co-accused Kulbir Singh, who is alleged to be a friend of the petitioner, is non-commercial in quantity i.e 150 gms, I am of the view that the petitioner is entitled to concession of regular bail during the pendency of trial. Trial is since not likely to commence any time soon due to current pandemic conditions.

7. In the premise, the instant petition is allowed. Petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of trial Court/Illaqa Magistrate/ Duty Magistrate.

JULY 14 , 2020
Shalini

(ARUN MONGA)
JUDGE

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