

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

**CRM-M-15955 of 2020 (O&M)
DATE OF DECISION : 13.07.2020**

Mohit Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Monty Goyal, Advocate,
for the petitioner.

Mr. Amit Mehta, Sr. DAG, Punjab.
(Presence marked through video conference)

ARUN MONGA, J. (ORAL)

1. The petitioner is seeking regular bail in FIR No. 181 dated 20.08.2019, registered under Sections 22, 25, 61 and 85 of Narcotic Drugs and Psychotropic Substances Act, Police Station Sadar, Khanna, District Ludhiana.
2. As per allegations in the FIR the police party was on patrolling in the area near Manji Sahab Gurudwara. They noticed two persons coming on motor cycle. On seeing the police party, the pillion rider (petitioner) threw away a black color bag. On suspicion, they were nabbed. The driver of the motor cycle disclosed his name as Bikramjit Singh. On checking of aforesaid, it was found containing scheduled drugs i.e. 150 tablets B-Calm-05 mg, 800 capsules Parvas Spas, 190 injections of Avil of 10 ml each and 200 injections of Legesic 2 ml. each. No permit or license to carry those scheduled drugs was shown. Hence the FIR.

3. Learned counsel for the petitioner submits that petitioner has been falsely implicated in the case. According to him it is a debatable question, whether the recovery was effected from the conscious possession of the petitioner. He further submits that provisions of NDPS Act were not following while carrying out search and seizure. He further points out that petitioner is in custody since 20.08.2019, investigation is complete, challan has been filed, but there is no headway in the trial due to Covid-19 pandemic. He further submits that petitioner is not involved in any other case. He points out that initially the petitioner was released on interim bail vide order dated 29.10.2019 awaiting report of Chemical Examiner, but on receipt of the same depicting the quantity recovered from the petitioner as “commercial”, the interim bail order was recalled vide order dated 07.02.2020 and petitioner surrendered before the Court.

4. On the other hand, learned State counsel, per his instructions, does not controvert that investigation is over and challan has already been filed in the Court and that the petitioner is not involved in any other case.

5. The petitioner is in custody for about eleven months. It would be a moot question during trial about the recovery from conscious possession of the petitioner, as contended by learned counsel for the petitioner. The investigation of the case has already been concluded, but the trial Courts are working with restrictions due to Covid-19 pandemic and only urgent matters are being entertained. In this scenario, there is no likelihood of the trial commencement and/or its conclusion in near future. The petitioner is not involved in any other case.

6. In the circumstances, the petition is allowed. The petitioner shall be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of Chief Judicial Magistrate/ Duty Magistrate, Ludhiana, as the

case may be. It is, however, made clear that in case the petitioner is found involved in any other case of similar nature, the State would be at liberty to file an appropriate application for cancellation of bail granted to him.

(ARUN MONGA)
JUDGE

JULY 13, 2020

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No