

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

CRM-M-16026-2020 (O&M)

Date of decision: 30.07.2020

Subhash Chander

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Sandeep Sharma, Advocate for the petitioner.

Mr. R.S. Thind, DAG, Punjab.

H.S. MADAAN, J. (Oral)

Case taken up through video conferencing.

This petition for regular bail has been filed by petitioner Subhash Chander, aged about 30 years, an accused in FIR No.33 dated 10.12.2019, for offences under Sections 21, 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the Act'), registered with Police Station Narot Jaimal Singh, District Pathankot.

In nutshell, the prosecution story is that, on 10.12.2019, a police party from Police Station Narot Jaimal Singh led by ASI Jasvir Singh was present at T-point at Jharoli turning in connection with patrolling and checking of vehicles when a motorcycle bearing registration No.PB35-AE-2420 make Splendor Plus black in colour came from Kilpur side which was being driver by accused Subhash

Chander (present petitioner) who on seeing the police party threw heavy plastic bag black in colour near the bushes; he was apprehended; the bag thrown by him was searched as per legal provisions and it was found to contain 2000 Ridley capsules along with a slip having Parvorin-Spas and Ridley written on it in English; the accused was arrested. The recovered contraband was taken into possession. On completion of investigation and other formalities, he was challaned; the challan against the accused was presented in the Court.

Petitioner/accused had filed a petition for grant of regular bail before Judge, Special Court, Pathankot, however, it was dismissed, vide order dated 01.06.2020. As such, he has approached this Court, craving for grant of similar relief, which request is being opposed by learned State counsel.

I have heard learned counsel for the parties besides going through the record.

At the very outset, it may be stated that the contraband recovered in this case amounts to commercial quantity. Section 37 of the Act is very relevant in the present scenario, which is being reproduced as under:-

Offences to be cognizable and non-bailable- (1)

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),-

(a) every offence punishable under this Act shall be cognizable;

(b) no person accused of an offence punishable for 2[offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity] shall be released on bail or on his own bond unless-

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force, on granting of bail.”

It clearly provides that a person accused of an offence involving commercial quantity can be released on bail only when the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and is not likely to commit any offence while on bail. I do not find any reason or justification for recording such satisfaction and to grant the benefit of regular bail to the petitioner.

Though, learned counsel for the petitioner has tried to find faults with the investigation carried out in the case, stating that several mandatory provisions have been flouted but such pleas may be raised during the trial before the trial Court. They are not having much significance while considering the case of the petitioner for grant of regular bail. This Court is not to give any finding with regard to guilt of the accused. The yardstick used to determine the guilt of the accused is quite different from the factors which need to be taken into consideration while granting bail, say, the gravity of allegations in this case, the quantity of contraband allegedly recovered from the accused,

his previous criminal record, likelihood of the petitioner absconding in the process delaying the trial, the apprehension of his influencing the prosecution witnesses by giving threats or inducement to them etc. Considering all these factors in the light of facts and circumstances of the case, there is absolutely no ground to grant regular bail to the petitioner. The petition so moved by him stands dismissed.

30.07.2020
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(H.S. MADAAN)
JUDGE

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