

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

**CRM-M-17241 of 2020 (O&M)  
DATE OF DECISION : 17.08.2020**

**Vijay Kumar**

**...Petitioner**

**Versus**

**State of Haryana**

**...Respondent**

**CORAM : HON'BLE MR. JUSTICE ARUN MONGA**

Present : Mr.Aditya Sanghi, Advocate,  
for the petitioner.

Mr. Bhupender Singh, DAG, Haryana.  
(Presence marked through video conference)

**ARUN MONGA, J. (ORAL)**

1. The petitioner is seeking regular bail in FIR No. 83 dated 02.05.2020, registered under Section 21 of Narcotic Drugs and Psychotropic Substances Act, 1985 and under Section 188 IPC, Police Station Ding, District Sirsa.

2. As per allegations in the FIR, on 02.05.2020, a police party, while on Covid-19 duty during lockdown at a check post, intercepted a car Verna bearing registration No. HR24X-4306. The car was signaled to stop, but the driver tried to run away. However, the police party overpowered the car. The petitioner, who was on wheels, along with his companion, namely, Ved Parkash were apprehended. Suspecting that they are carrying some narcotic substance, a notice under Section 50 of NDPS Act was served. Their search was carried out in presence of a Gazetted Officer. Though nothing was recovered on their person, but on search of the car, 140 grams of heroin was recovered lying near the gear box. The accused were arrested and are in custody since then.

3. Learned counsel submits that the petitioner is in custody since 02.05.2020. According to him, the alleged seized contraband falls within the definition of “non-commercial” quantity. He further submits that investigation is over as challan has already been filed. According to him, the alleged recovery was not from conscious possession of the petitioner and such a recovery is a debatable question at trial. He contends that the prosecution has not even established the ownership of the car in question in the name of petitioner. He further submits that in the current pandemic scenario, there is no likelihood of commencement or conclusion of trial anytime soon. According to him, all the witnesses are official. That being the position, there is no occasion for the petitioner to hamper or tamper with the evidence or threaten the witnesses. He further submits that petitioner is not involved in any other matter of similar nature. He relies on orders dated 02.07.2018 and 01.09.2015 passed by Coordinate Benches of this Court in CRM-M-23810 of 2018(Chukwubike Vs. State of Punjab) and CRM-M-28777 of 2015(Palo Vs. State of Punjab) respectively to contend that in somewhat similar circumstances, the petitioners/accused therein were granted the concession of bail.

4. On the other hand, learned State counsel opposes the bail plea. On a query of the Court, he admits that investigation is over, challan has been filed and the charges are yet to frame. He does not dispute that the petitioner is in custody since 02.05.2020 and that there is not much progress in the trial.

5. The petitioner is in custody since 02.05.2020. The plea of conscious possession would be a moot question that has to be adjudicated during trial, which is not likely to conclude due to covid-19 pandemic, as a result of which Courts are working under restrictions and taking up only urgent matters. Considering the overall scenario, without commenting on the merits of

the case, the petition is allowed. Petitioner shall be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of Chief Judicial Magistrate/ Duty Magistrate, Sirsa, 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 while on bail, the prosecution shall be at liberty to seek cancellation of his bail.

**August 17<sup>th</sup> 2020**  
Jiten

**(ARUN MONGA)**  
**JUDGE**

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