

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.207

CRM-M-19137-2020

Date of decision : 16.10.2020

Ashwani Kumar @ Saffy

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

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

Mr. Amit Mehta, Sr. DAG, Punjab.

SUDHIR MITTAL, J. (Oral)

The petitioner seeks regular bail in case FIR No.73 dated 13.5.2019, registered at Police Station Sadar, District Tarn Taran, under Sections 21 and 29 of NDPS Act, 1985 and Section 25 of the Arms Act, 1959.

Learned counsel for the petitioner submits that the petitioner has been in custody for almost 01 year and 05 months. The trial is not likely to be concluded at an early date as only 03 PWs, out of a total of 13 PWs have been examined, till date. Recovery from the petitioner is 260 grams of heroin and weighment was done alongwith bag and thus, it is likely that recovery of contraband recovered from him is non-commercial quantity, if the weight of the bag is taken into consideration. In view of the custody period undergone by the petitioner as well as the fact that the trial is not likely to be concluded at an early date, the petitioner may be released on regular bail.

Custody certificate dated 16.10.2020 has been produced in Court today and the same is taken on record. According to this certificate, the petitioner has undergone actual custody of 01 year, 04 months and 28

days and there are 02 other criminal cases pending against him under the NDPS Act, 1985. His conviction has also been recorded in one case under the NDPS Act, 1985.

As per the record, recovery is of 260 grams of heroin. Learned State counsel, however, does not dispute that the weighment was made with the bag and thus, weight of the bag is liable to be excluded.

Under the circumstances, it would be fair to infer that the recovered contraband is less than commercial quantity, although, final determination will be made only during the trial. Thus, in view of the custody period already undergone by the petitioner as well as the fact that the trial is not likely to be concluded at an early date, I deem it appropriate to allow this petition. Accordingly, the petition is allowed and petitioner is ordered to be released on bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

(SUDHIR MITTAL)
JUDGE

16.10.2020
Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes / No
Yes/ No