

CRM-M No.21363 of 2020

Date of Decision : 17.09.2020

Sonu @ Kapil

...Petitioner

Versus

State of Haryana

....Respondent

Coram : Hon'ble Mr. Justice B.S. Walia

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

Mr. Surender Singh, Asstt. A.G., Haryana.

B.S. Walia, J. (VC)

1. Case is being taken up for hearing through Video Conferencing due to the outbreak of Covid-19 pandemic.
2. Prayer in the petition under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.340, dated 14.05.2020, registered under Sections 21-B/27 of the NDPS Act, 1985 and 188 IPC at Police Station City Hisar, District Hisar.
3. Learned counsel for the petitioner contends that the petitioner was nominated as accused solely on the disclosure statement of co-accused Sunil from whom recovery of 10 grams of *heroin* was made. However, no recovery was effected from the petitioner in the instant case and the quantity of contraband recovered from the co-accused falls in the category of less than commercial quantity, therefore, the provisions of Section 37 of the NDPS Act do not come into play.
4. Learned counsel contends that apart from the disclosure statement, there is no other material against the petitioner, who was arrested

on 16.05.2020. Learned counsel further contends that investigation of the case is complete, challan has been presented but charges are to be framed.

5. Learned counsel for the petitioner has also relied upon the order of this Court in CRM-M No.14456 of 2020 in case titled as '**Azuka** versus **UT, Chandigarh**', involving recovery of 211 grams of *heroin*, wherein the petitioner was released on bail on the ground that the petitioner was in custody for close to 06 months and that out of 13 witnesses, only 02 witnesses had been examined, besides co-ordinate Bench of this Court in CRM-M No.7863 of 2017 in case titled as '**Ugochukwu Henry** versus **State of Punjab**', involving recovery of 300 grams of *heroin* had granted regular bail to the petitioner therein by relying upon the decision of a co-ordinate Bench in CRM-M NO.37253 of 2016 in case titled as '**Festus Ugochukwu** versus **State of Punjab**'.

6. Learned State Counsel, on instructions from *ASI Anoop Singh*, does not dispute the aforementioned factual position but states that the petitioner is involved in 02 other cases under the NDPS Act out of which, in 01 case the petitioner stands convicted and has undergone sentence while the other case is under investigation but that the recovery in the other case is also less than commercial quantity.

7. I have considered the submissions of learned counsel for the parties.

8. Admittedly, nothing was recovered from the petitioner and he has been implicated solely on the basis of disclosure statement of co-accused from whom 10 grams of *heroin* was recovered.

9. In the light of the position as noted above and taking into account that charges have yet to be framed, trial is likely to take considerable period of time on account of prevailing coronavirus pandemic, and that no useful purpose would be served by keeping the petitioner in custody, the petition for regular bail is ***allowed***. The petitioner is directed to be released on bail, subject to his furnishing requisite bail / surety bonds to the satisfaction of the learned trial Court / CJM / Duty Magistrate, concerned, provided he is not required in any other case.

10. However, nothing stated hereinabove shall be taken to be an expression of opinion *qua* the merits of the case.

(B.S. Walia)
Judge

September 17, 2020

'Rajneesh-Amit'

<i>Whether speaking/ reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>