

Sr. No.220

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

**CRM-M-24422 of 2020 (O&M)
DATE OF DECISION : 01.09.2020**

Ved Parkash

...Petitioner

Versus

State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Sunil Sihag, Advocate,
for the petitioner.

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

ARUN MONGA, J. (ORAL)

1. Petitioner seeks 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, at Police Station Ding, District Sirsa.
2. Per allegations in the FIR, on 02.05.2020, a police party, while on routine checking on Covid-19 duty during lockdown, intercepted a car Verna bearing registration No. HR24X-4306. It was signalled to stop, but the driver instead tried to run away. However, the police party overpowered the car. The petitioner, who was co-passenger, along with his companion named Vijay, who was on wheels, 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 Gazetted Officer. Though nothing was recovered from their person, but on search of the car, 140 grams of heroin was

recovered lying near the gear box. The accused were then arrested from the spot.

3. Learned counsel submits that the petitioner is in custody since 02.05.2020. According to him, the quantity falls within the definition of “non-commercial” quantity. He further submits that investigation is over, challan has been filed, but charges are yet to be framed. According to him, the alleged recovery was not from conscious possession and it is debatable question at trial as the petitioner is not the owner of the car in question. According to him, co-accused Vijay, who is owner of car has been granted bail by this Court by virtue of order dated 17.08.2020 passed in CRM-M-17241 of 2020(Annexure P-3). On the ground of parity alone, the petitioner is entitled to be released on bail. He further submits that especially in the pandemic scenario, there is no likelihood of trial being concluded in time. According to him, all the witnesses are official and thus there is no likelihood to hamper or tamper with the evidence or threaten the witnesses by the petitioner. He further submits that petitioner is not involved in any other matter of similar nature.

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. He also admits that co-accused Vijay has been granted the benefit of regular bail by this Court and petitioner is not involved in any other case of similar nature.

5. The plea of conscious possession would be a moot question that has to be adjudicated during trial, which is not likely to commence or conclude anytime soon due to covid-19 pandemic. Courts are currently working with restrictions and taking up only urgent matters. That apart, on parity as well, the petitioner is entitled to be released on bail. Therefore, 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.

September 01, 2020
Jiten

(ARUN MONGA)
JUDGE

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