

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

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CRM-M-26030-2020

Decided on : 11.09.2020

Balraj Singh @ Raju Katta

... Petitioner

Versus

State of Punjab

... Respondent

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Ms.Rishma Verma, Advocate, for the petitioner.

Mr.H.S.Sullar, DAG, Punjab.

(The proceedings are being conducted through video conferencing,
as per instructions.)

G.S. Sandhawalia, J. (Oral)

Petitioner seeks benefit of regular bail in a petition filed under Section 439 Cr.P.C., in FIR No.209 dated 26.12.2019 under Sections 29, 21, 61, 85 of NDPS Act, 1985 registered at Police Station Kartarpur, District Jalandhar Rural.

Counsel for the petitioner submits that the petitioner has been implicated on account of the fact that the contraband of 1 ½ kgs of Heroin was recovered from Gaurav Chauhan who had given a confessional statement against the petitioner. Similarly, the co-accused, Sanjeev Kumar @ Pamma had also stated that the contraband had been bought at the instance of the petitioner, Balraj Singh. The petitioner was, thereafter, arrested on 04.01.2020. It is thus submitted from the custody certificate dated 11.09.2020 produced by the State Counsel that the petitioner is undergoing 10 years of sentence in FIR No.109 dated 27.08.2016 under Section 21(C) of NDPS Act lodged at Police Station Kurali District Rupnagar since 20.09.2019. It is accordingly submitted that the petitioner has been formally arrested on 04.01.2020 and was in judicial custody and is thus entitled for the benefit of regular bail.

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It is further submitted that it would be debatable issue as to whether the disclosure statement of the co-accused would be conclusive enough to sentence the petitioner. It is still further pointed out that another accused-Pushpinder Singh @ Noni who was named in the FIR registered on the basis of secret information received and who was also stated to be in jail and directing the delivery of drugs, has been discharged by the Addl. Sessions Judge, vide order dated 19.05.2020.

Sanjay Kumar, who had been nominated on the statement of Gaurav Chauhan has been implicated on the ground that he had bought 200 grams of Heroin and recovery of 100 grams had been effected and therefore, he had been granted bail on account of the fact that contraband was not of commercial quantity, on 04.02.2020. Sanjeev Kumar, who was named in the FIR has been granted the benefit of regular bail by the Special Court on 19.5.2020 by noting that co-accused, Sanjay Kumar has been released on bail and that no recovery was effected from the said person.

Keeping in view the above facts, this Court is of the opinion that petitioner is also entitled for the benefit of regular bail, as he was in judicial custody when the recovery of contraband had taken place. Resultantly, the present petition is allowed and the petitioner shall be released on regular bail, to the satisfaction of the Ilqa/Duty Magistrate, Jalandhar.

SEPTEMBER 11, 2020

sailesh

**(G.S. SANDHAWALIA)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No