

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

203

**CRM-M-26984-2020
Decided on : 16.09.2020**

Sunny

... Petitioner

Versus

State of Punjab

... Respondent

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

Present: Mr. Ashish Soi, Advocate for the petitioner (s).

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

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

G.S. Sandhawal, J. (Oral)

The petitioner seeks regular bail in a petition filed under Section 439 Cr.P.C. in FIR No. 60 dated 07.05.2020 under Sections 21 and 29 of the NDPS Act, P.S. Special Task Force, Phase IV, District SAS Nagar, Mohali.

It is the case of the petitioner that he has undergone 4 months and 7 days of actual sentence as per the custody certificate dated 16.09.2020. It is submitted that the petitioner is not involved in any other case of similar nature as per the said certificate. Accordingly, it is contended that the recovery of 280 grams of heroin was from the dash board of the car, which was not driven by the petitioner and neither the car belongs to him.

The said fact is verified by Mr. Sullar, on instructions from S.I. Surinder Singh.

The petitioner was one of the four occupants of the car and,

therefore, it would be debatable whether he was in conscious possession of the contraband which has been recovered.

A perusal of the FIR would go on to show that secret information was received that four persons were coming in the i10 car and the number of the vehicle had also been mentioned. The said occupants were stated to be supplying heroin to their clients. Resultantly, the vehicle had been stopped which was being driven by Bhagwan Singh @ Happy @ Baba, who is resident of Rajasthan. The petitioner was one of the occupants of the car alongwith the other three occupants. Resultantly, the recovery was made.

Keeping in view the above facts as noticed above since the recovery is slightly over the commercial quantity being 280 grams of heroin and the vehicle was not driven by him and since there were three occupants of the vehicle, it would be a moot question before the Trial Court as to whether the petitioner is liable to be convicted on account of the conscious possession of narcotic substances. The custody certificate also shows that there is no other case of similar nature against the petitioner and, therefore, in such circumstances since the report of the FSL is also awaited and complete challan would only be filed then and considerable time will be taken to conclude the trial.

Reliance is also placed upon the order dated 03.009.2020 passed in **CRM-M-23008-2020 'Dharminder Singh Vs. State of Punjab'** (Annexure P-2), whereby co-accused has been released on bail in similar circumstances.

Accordingly, the petition is allowed and the petitioner is directed to be released on bail to the satisfaction of Duty Magistrate/Illaq Magistrate, Ludhiana. Needless to say that anything said herein is only for the purpose of deciding the present bail application and this Court has not opined on the merits of the case.

September 16, 2020
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No