

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

206

**CRM-M-28409-2020
Decided on : 14.12.2020**

Amrik Singh

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

(Through Video Conferencing)

PRESENT: Mr. R.S. Sekhon, Advocate,
for the petitioner(s).

Ms. Jaspreet Kaur, AAG, Punjab
assisted by ASI Jagbir Singh.

MANJARI NEHRU KAUL, J. (Oral)

This is the third petition filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No. 72, dated 09.04.2019, under Section 21 of the NDPS Act, 1985, registered at Police Station Islamabad, District Amritsar.

Learned counsel for the petitioner *inter alia* submitted that the alleged recovery of 250 grams of heroin shown to have been effected from him and another recovery of 300 grams of heroin shown to have been effected from the co-accused Sarabjit Kaur, who was allegedly with the petitioner, does not fall within the category of commercial quantity and it would be a debatable issue whether the alleged recovery of 250 grams of heroin effected from the petitioner, could be said to be from his conscious possession, as it was found from the bag allegedly thrown by the petitioner on seeing the police.

Learned counsel for the petitioner has further submitted that the

petitioner has been in custody since 09th April, 2019 and there is no likelihood of the trial concluding in the near future. Hence, he be extended the concession of regular bail.

Per contra, learned State counsel while opposing the prayer and submissions of the learned counsel for the petitioner, has reiterated that in view of the criminal antecedents of the petitioner and the fact that after the withdrawal of the previous two petitions seeking regular bail under Section 439 Cr.P.C., no new ground has been brought-forth by the petitioner, which would entitle him to the concession of regular bail.

Heard.

On a bare perusal of the FIR in question, *prima facie*, it is revealed that the petitioner along with the co-accused on seeing the police party, threw the bag containing the alleged contraband on the roadside. It was on suspicion that the police party apprehended both the accused including the petitioner and recovered the contraband i.e. 250 grams from the petitioner and 300 grams from the co-accused, which when taken together clearly falls within the ambit of 'commercial quantity'. The submission of the learned counsel for the petitioner that the question whether the alleged contraband was effected from his conscious possession or not, would be a debatable issue, cannot be gone into at this stage and would be appreciated when the evidence is adduced before the trial Court.

Further, as per the custody certificate of the petitioner, submitted by the learned State counsel, it is revealed that the petitioner is a man of criminal antecedents, inasmuch as, he is shown to be involved in three other cases including one under the NDPS Act.

In the facts and circumstances of the case, the petitioner does

not deserve the concession of regular bail.

Dismissed. However, anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

December 14, 2020

J.Ram

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