

Sr. No.214

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

**CRM-M-29881 of 2020 (O&M)
DATE OF DECISION : 08.10.2020**

Sahil

...Petitioner

Versus

State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Keshav Partap Singh, 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. 261 dated 15.08.2020, registered under Sections 22-C, 27-A and 29 of Narcotic Drugs and Psychotropic Substances Act, Police Station City Bhuna, District Fatehabad.

2. Per FIR, on 15.08.2020, a police party apprehended one Suresh @ Mangal on the basis of suspicion. From him, recovery of 2,000 tablets of Tramadol Hydrochloride and 1,500 tablets of Alprazolam was effected. FIR was registered. During investigation, pursuant to the disclosure statement of Suresh @ Mangal, one Sube Singh was arrested by the police and during his interrogation, he named the present petitioner being involved in the offence. The petitioner was arrested on 03.09.2020.

3. Learned counsels submit that neither the petitioners were named in the FIR nor anything was recovered from them. According to him,

both the petitioners were implicated on the basis of custodial disclosure statements of co-accused, which are not legally admissible. According to them, there has been violation of mandatory provisions of Section 50 of NDPS Act. They further submit that custodial interrogation of the petitioner is no more required. Due to pandemic, there is no likelihood of even commencement of trial.

4. On the other hand, learned State counsel opposes the bail plea. He argues that there is bar under Section 37 of NDPS Act to grant bail in the cases where recovery is of commercial quantity. He, however, admits that petitioners were arrested on the basis of disclosure statements of co-accused, who are currently confined and nothing was recovered from them and they are not involved in any other case.

5. Presently, the trial has not commenced and the aforesaid contentions of learned counsel are to be adjudged only at the trial. Courts are working with restrictions and taking up only urgent matters. Petitioners are not involved in any other case. Admittedly, no recovery was effected from the petitioner and, prima facie, provisions of Section 37 of NDPS Act are thus not attracted in the case in hand qua the petitioners. Reliance may be had on Division Bench judgment of this Court in CRM-M-25433 of 2015, titled as Dharamveer & Anr. Vs. State of Punjab, decided on 07.10.2015.

7. Considering the overall scenario and without commenting on the merits of the case, the petitions are allowed. Petitioner shall be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/ Duty Magistrate, 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

7. Both petitions are allowed accordingly.

October 08, 2020
Jiten

(ARUN MONGA)
JUDGE

Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No