

210 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-30071-2020
Date of Decision: 01.10.2020

Abhishek Kumar @ Modi

... Petitioner

v/s

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Neeraj Madaan, Advocate for the petitioner.

Mr. Rana Harjasdeep Singh, DAG Punjab.

*(The case has been taken up through video conferencing on
account of Covid-19 pandemic)*

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VIVEK PURI, J. (ORAL)

The petitioner has prayed for grant of regular bail in case FIR No. 164 dated 14.7.2020 under Section 15 of NDPS Act registered at Police Station City-1 Abohar, District Fazilka.

Briefly, the FIR has been registered in pursuance of the recovery of two bags containing 50 Kg of poppy husk being carried by the petitioner in a car bearing Regd No. PB-15U-6481.

It has been contended by learned counsel for the petitioner that the contraband has been recovered from two bags and the weightment has been carried out along with the bags. In such circumstances, the quantity of contraband alleged to have been recovered from the petitioner has to be construed as less than commercial quantity. The arrest of the petitioner was effected on 14.7.2020, the investigation of the case is complete and the challan has already been presented in the Court. Furthermore, there is no other case registered against the petitioner.

Learned State counsel, on instructions from ASI Krishan Lal

has not disputed the factual aspect of the matter.

In the instant case, the contraband has been recovered from two bags and weightment has been carried out along with the bags. In such circumstances, it is quite possible that the quantity of contraband recovered from the possession of the petitioner may be less than 50 Kg i.e. non-commercial quantity. In such circumstances, stringent provisions of section 37 of the NDPS Act will not come into play. Moreover, the challan has already been presented and the conclusion of trial is likely to take some time. The petitioner is not involved in any other similar case.

In these circumstances, further detention of the petitioner may not be justified. Therefore, without making any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

The petition is allowed.

01.10.2020

Janki

**(VIVEK PURI)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No