

223

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

CRM-M-31859 of 2020

Date of decision: November 02, 2020

Mohit

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Lupil Gupta, Advocate for the petitioner.

Mr. Pardeep Prakash Chahar, DAG Haryana.

MAHABIR SINGH SINDHU, J

Present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (for short 'Cr. P.C.') for grant of bail pending trial to the petitioner in FIR No.464 dated 04.08.2020, under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), registered at Police Station City Sirsa, District Sirsa.

As per prosecution case, co-accused of the petitioner was apprehended by the police and 30 grams of heroin wrapped in a polythene was recovered from him. On his disclosure, petitioner has been nominated in this case.

Contentends that petitioner is in custody since 06.08.2020. Also contends that as per the allegations of the prosecution itself, recovery effected from the co-accused, namely Ankur Soni is less than commercial, i.e. 30 grams of heroin. Further contends that said co-accused has already been granted the concession of bail pending trial by the coordinate Bench on 01.10.2020 in CRM-M-30010-2020.

The above factual position is duly acknowledged by the learned State counsel, on instructions from police official, but opposed the prayer of the petitioner.

Heard both sides and perused the paper-book.

Investigation in the matter is already over and recovery, in this case is alleged to be 30 grams of heroin, which is less than commercial in nature; thus, rigor of Section 37 of the NDPS Act would not be attracted. Concededly, co-accused of the petitioner from whom the recovery was effected, has already been granted the concession of bail pending trial by the coordinate Bench. Since the trial will take long time for final conclusion, therefore, further incarceration of the petitioner would not serve any purpose.

In view of the above, this petition is allowed. Petitioner is ordered to be released on bail, in this case, on his furnishing adequate bail bonds and surety bonds to the satisfaction of learned trial Court/Duty Magistrate concerned.

The above observations may not be construed as an expression of opinion on the merits of the case.

It is clarified that in case, there is any recurrence on the part of the petitioner, State would be at liberty to move an application for recalling of this order forthwith.

(MAHABIR SINGH SINDHU)
JUDGE

November 02, 2020

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Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No