

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

**CRM-M No.39821 of 2019 (O&M)
Decided on: 23.01.2020**

Sajan		Petitioner
	Versus	
Union Territory, Chandigarh		Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Vivek Kathuria, Advocate for the petitioner.

Mr. Lalit K. Gupta, APP, U.T., Chandigarh.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioners under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.118 dated 24.05.2019, for offence punishable under Section 20 of the of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') registered at Police Station East Sector 26, Chandigarh.

Counsel for the petitioner has argued that the FIR was registered at the instance of ASI Sushil Kumar that on 24.05.2019, he along with the police party was present at a naka where, they noticed a person coming on a foot, who became perplexed on seeing the police party and thereafter, he was apprehended when he was trying to throw a polythene bag by taking it out from the trouser, which was found to be containing 260 gms of charas.

Counsel for the petitioner has further submitted that the petitioner is not facing any other trial under the NDPS Act and in FIR No.736 dated 20.12.2017 registered under Sections 471 and 411 IPC, Police Station Sector 34, Chandigarh, he already stands acquitted vide

judgment dated 11.02.2016.

Counsel for the petitioner has also submitted that it is a matter of trial as to whether the search of the petitioner was conducted by following the proper legal procedure or not. It is lastly, argued that the recovery effected from the petitioner falls under the non-commercial quantity.

Counsel for the State, on the basis of the Custody Certificate dated 24.11.2019 has submitted that the petitioner is in custody for the last about 09 months and 07 PWs have already been examined out of 16 PWs.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last about 09 months; the recovery effected from the petitioner falls under the non-commercial quantity; the petitioner is not involved in any other case; challan stands presented; out of 16 PWs only 07 PWs have been examined so far and the conclusion of the trial will take some time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

23.01.2020

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Whether speaking/reasoned
Whether reportable:

Yes/No
Yes/No