

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

203

**CRM-M No.47446 of 2019
Date of decision:28.10.2020**

Salinder Singh @ Shinda

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr.Prateek Pandit,, Advocate for the petitioner.

Mr. M.S. Nagra, AAG, Punjab.

SUVIR SEHGAL J. (ORAL)

The Court has been convened through video conferencing due to Covid-19 pandemic.

Petitioner has filed this petition under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.181, dated 09.08.2019 registered under Section 21 of the NDPS Act, 1985 at Police Station Sultanpur Lodhi, District Kapurthala.

Counsel for the petitioner has argued that the recovery allegedly effected from the petitioner is 280 grams of heroin, which is marginally above the maximum limit of non-commercial quantity as specified under the NDPS Act. He submits that the petitioner is in incarceration for the last more than 1 year and 2 months and there is no other case pending against him under the provisions of the NDPS Act.

According to the counsel, the petitioner is involved in FIR No.162 dated 28.07.2019 registered under Sections 323, 452, 506, 148 IPC, at Police Station Sultanpur Lodhi, District Kapurthala, which was registered because of a dispute *inter se* members of his family over agricultural land. He has placed reliance upon the judgments passed by co-ordinate Benches of this Court in CRM-M-45239-2019, ***Jaspal Singh @ Pala Vs. State of Punjab***, decided on 25.02.2020; CRM-M-37253-2016, ***Festus Ugochukwu Vs. State of Punjab*** decided on 07.12.2016, CRM-M-40876-2017, ***Vishal Shah Vs. State of Punjab***, decided on 04.04.2018, CRM-M-53641-2019, ***Nirmal Singh @ Bittu Vs. State of Punjab***, decided on 13.08.2020, CRM-M-17546-2020, ***Pardeep Singh @ Raja Vs. State of Punjab***, decided on 22.07.2020; CRM-M-31280-2019, ***Randheer Singh Vs. State of Punjab***, decided on 07.09.2020; CRM-M-17579-2020, ***Jeet Kaur Vs. State of Punjab***, decided on 17.07.2020; CRM-M-47750-2018, ***Gurjant Singh Vs. State of Punjab***, decided on 25.01.2019; CRM-M-27689-2018, ***Vijay Kumar Vs. State of Punjab***, decided on 31.10.2018 and CRM-M-36744-2017, ***Jasbir Singh @ Lali Vs. State of Punjab***, decided on 23.10.2017. Counsel for the petitioner further submits that the petitioner deserves to be enlarged on bail as trial is not progressing because of the pandemic.

Per contra, State counsel has opposed the petition. Upon instructions from ASI Kuldeep Singh, he submits that the petitioner has been apprehended with contraband which falls within the ambit of commercial quantity under the Act and the rigor of Section 37(1)(b) of the Act is attracted. He has filed the custody certificate dated 27.10.2020,

which is taken on record. As per his instructions, the challan was filed on 30.01.2020 and the charges have been framed on 09.03.2020 but no prosecution witness has been examined till date.

I have considered the rival submissions of the parties.

Keeping in view the above facts and circumstances, period of incarceration of the petitioner, which by now works out to 1 year, 2 months and 16 days, quantity of contraband involved and the fact that the trial is likely to consume time due to spread of contagion, no useful purpose would be served by keeping the petitioner behind the bars any further.

Without commenting anything on the merits of the case, the petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

It is clarified that any observation made hereinabove shall not be construed to be a reflection of opinion on the merits of the case.

14.10.2020

pooja saini

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No