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

**CRM-M No.49863 of 2019(O&M)
Date of Decision: 27.08.2020**

Mohd Irfan

.....Petitioner

Vs

State of Punjab

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. B.D. Sharma, Advocate
for the petitioner.

Mr. R.P. Singh, DAG, Punjab.

RAJ MOHAN SINGH, J.(Oral)

The case has been taken up for hearing through video conferencing.

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.32 dated 03.02.2019 registered under Section 21 of the NDPS Act at Police Station Phillaur, District Jalandhar.

500 grams of heroin was allegedly found in possession of the petitioner. FIR was lodged by ASI Nirmal Singh who further investigated the case.

Learned counsel for the petitioner submits that ratio of **Mohan Lal Vs. State of Punjab, AIR 2018 (SCW) 2853** is prospective in nature. **Mohan Lal's case (supra)** came to be considered by the Hon'ble Apex Court in **Varinder Kumar Vs. State of Himachal Pradesh (Crl. Appeal No.2450-51 of 2010)** decided on 11.02.2019. It was held by the Hon'ble Apex Court that all the pending criminal prosecutions, trials, appeals prior to the law laid down in **Mohan Lal's case (supra)** shall continue to be governed by the individual facts of the case. **Mohan Lal's case (supra)** was decided by the Hon'ble Apex Court on 16.08.2020.

FIR in the present case i.e. FIR No.32 was registered on 03.02.2019 under Section 21 of the NDPS Act.

The aforesaid factual position could not be disputed by learned State counsel.

In view of aforesaid legal position, the case would be debatable as to the complicity of the petitioner and the same would depend upon the quality of evidence to be led by the prosecution. Learned State counsel apprised this Court that the challan has been presented and after framing of charges, the case is fixed for 08.09.2020 for leading prosecution evidence.

Having heard learned counsel for the parties, keeping

in view the ratio of **Mohan Lal's case (supra)** viz-a-viz the consideration made by the Hon'ble Apex Court in **Varinder Kumar's case (supra)**, the situation arising out of pandemic Covid-19 and without meaning anything on merits of the case, I deem it appropriate to enlarge the petitioner on regular bail subject to the satisfaction of the trial Court/Duty Magistrate concerned.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

27.08.2020

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(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned Yes/No

Whether reportable Yes/No