

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

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CRM-M-50683-2019 (O&M)

Date of Decision : 31.07.2020

Amandeep Singh @ Boni

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Puneet Kakkar, Advocate
for the petitioner.

Mr. P.S. Walia, AAG, Punjab
for the respondent-State.

ARUN KUMAR TYAGI, J. (Oral)

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

CRM-14952-2020

Learned Counsel for the petitioner submits that the petitioner does not want to continue with the present application and the same may be dismissed as withdrawn.

Dismissed as withdrawn.

CRM-M-50683-2019

The petitioner has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.181 dated 12.08.2016 registered under Sections 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') at Police Station City Faridkot, District Faridkot.

The above-said FIR was registered on statement of ASI Charanjit Singh who alleged that on 12.08.2016 he along with other officials produced accused Amandeep Singh @ Bunty in the Court in case FIR No.128 dated 07.06.2016 registered under Section 21 of the NDPS Act at Police Station City Faridkot. When after his production in the Court the petitioner, who was handcuffed, was being taken back to Bakashikana, two persons later identified to be co-accused Gagandeep Singh @ Gora and Harmanjeet Singh tried to handover some contraband

wrapped in transparent envelop to him. Gagandeep Singh @ Gora was apprehended but Harmanjeet Singh managed to escape. On search the envelop was found to contain 180 loose tablets of Buprenorphine Hydrochloride total weighing 20.217 grams.

The petitioner, who is in custody since 31.10.2019, has filed the present petition for grant of regular bail.

Petition has been opposed by learned State Counsel. However, no reply has been filed by respondent-State.

Custody certificate has been filed by learned State Counsel through e-mail print out of which is taken on record.

I have heard learned Counsel for the petitioner and learned State Counsel and gone through the record.

Learned Counsel for the petitioner has argued that the petitioner has been falsely implicated in the case. As per the allegations made in the FIR co-accused Gagandeep Singh @ Gora and Harmanjeet Singh tried to handover one envelop containing 180 tablets of Buprenorphine Hydrochloride total weighing 20.217 to the petitioner. Recovery was not made from the petitioner. Rigors of Section 37(1)(b) of the NDPS Act are not applicable qua the petitioner. Co-accused Gagandeep Singh @ Gora and Harmanjeet Singh have been granted bail by this Court vide order dated 21.11.2019 and 17.02.2017. The case of the prosecution is highly improbable as no one could handover the contraband to the petitioner when the petitioner was under police escort. The petitioner is involved in another case under the NDPS Act but the petitioner has been granted bail in that case by learned Judge, Special Court, Faridkot vide order dated 13.07.2020. The trial of the present case is likely to take long time and no useful purpose will be served by keeping the petitioner in custody. Therefore, the petitioner may be ordered to be released on regular bail.

On the other hand, learned State Counsel has argued that in view of the gravity of accusation, the petitioner, who is also involved in another case under the NDPS Act, does not deserve the concession of regular bail. Therefore, the petition may be dismissed.

In the present case, the allegations in the FIR against the petitioner are vague as to whether the contraband had actually been

handedover to the petitioner and whether recovery was made from the petitioner or his co-accused and applicability of Section 37(1)(b) of the NDPS Act is disputed.

Keeping in view the facts and circumstances of the case, nature of accusation against the petitioner, grant of bail to the co-accused and the fact that the trial is likely to take long time due to restrictions imposed to prevent spread of infection of Covid-19 but without commenting on merits of the case, I am of the considered view that the petitioner deserves the concession of regular bail.

Therefore, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of requisite bail bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

However, the petitioner is granted regular bail subject to the condition that he shall not commit any offence under the NDPS Act after his release on bail and in case of commission of any offence under the NDPS Act by him in future his bail in the present case shall also be liable to be cancelled on application to be filed in this regard.

31.07.2020

Kothiyal

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No