

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

**CRM-M-52211 of 2019 (O&M)
DATE OF DECISION : 30.07.2020**

Varun Kumar @ Golu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Gurpal Singh Sandhu, Advocate,
for the petitioner.

Mrs. Bhavna Gupta, DAG Punjab.
(Presence marked through video conference)

ARUN MONGA, J. (ORAL)

1. The petitioner is seeking regular bail in FIR No. 109 dated 06.06.2018, registered under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985, Police Station Lambi, District Sri Muktsar Sahib.

2. Per allegations in the FIR, on 06.06.2018 a police party on surprise checking, intercepted a Honda City car bearing registration No. DL4CP-6721. The petitioner, who was on wheels, along with his two companions, namely, Deepak Kumar and Harpreet Singh were apprehended. From search of boot of the car, 70 bottles of Onerex syrup 100 ml. each and 95 strips of Carisoprodol (Carisoma) each containing 10 tablets, were recovered.

3. Learned counsel submits that the petitioner is in custody for more than two years. He has referred to zimni orders passed by the trial Court to show that there is no headway in the trial, which is lingering on since 2018.

4. He further submits that currently due to the pandemic scenario, there is no likelihood of trial being concluded any time soon. He further submits that petitioner is not involved in any other matter of similar nature, apart from a case under Section 323, 452 IPC.

5. He further points out co-accused Harpreet Singh and Deepak Kumar have been granted regular bail by this Court vide orders dated 08.11.2019 and 03.12.2019 passed in CRM-M-38388 of 2019 and CRM-M-50050 of 2019, respectively. The petitioner is, therefore, entitled to same benefit on the ground of parity alone. He further submits that provisions of NDPS Act have wrongly been invoked.

4. On the other hand, learned State counsel opposes the bail plea. According to her, the quantity falls within the definition of “commercial quantity” and petitioner is not entitled to be released on bail. According to her, though the co-accused have been enlarged on bail, but the petitioner was owner of the car from which recovery was effected and was driving the same at that time and he is not entitled to parity. She, however, admits that there is not much progress in the trial.

5. The petitioner is in custody since 06.06.2018. The contention of applicability of provisions of NDPS Act being invoked wrongly is a debatable question that has to be adjudicated during trial, which is not likely to conclude anytime soon. Due to covid-19 pandemic Courts are working with restrictions and taking up only urgent matters. The co-accused/ co-passengers have already been enlarged on bail and it will be decided after trial as to from whose

possession, the recovery was effected. Therefore, without commenting on the merits of the case, the petition is allowed.

6. Petitioner shall be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of Chief Judicial Magistrate/ Duty Magistrate, Sri Muktsar Sahib, as the case may be. It is however, made clear that in case the petitioner is found involved in any other case of similar nature while on bail, the prosecution shall be at liberty to seek cancellation of his bail.

JULY 30, 2020
Jiten

(ARUN MONGA)
JUDGE

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