

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

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CRM-M-55404-2019 (O&M)

Date of decision : 16.12.2020

Mohinder Singh

... Petitioner

Versus

Narcotic Control Bureau, Chandigarh

.. Respondent

CORAM :HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. A.D.S. Sukhija, Advocate for the petitioner.

Mr. Rajiv Sharma, Advocate for the respondent/NCB.

Anupinder Singh Grewal, J. (Oral)

The petitioner is seeking regular bail in a complaint case bearing Crime No.24/2019, dated 14.05.2019, under Sections 8, 18, 29 and 60 of the NDPS Act, registered at Police Station NCB, Chandigarh.

Learned counsel for the petitioner contends that it is alleged that on secret information on 14.05.2019, two persons, namely, Dinesh Kumar and Ram Niwas, who were travelling in a car, were intercepting on the Panchkula Kalka Highway and 19.800 kgs. opium is alleged to have been recovered from them. *Panchnama* was prepared wherein Dinesh Kumar and Ram Niwas disclosed that opium was to be delivered to some *baba* in Pinjore. However, on that very day, when the accused were taken to the NCB office and their statements under Sections 67 of the NDPS Act were recorded, they are alleged to have stated that parts of the consignment were to be delivered to co-accused, namely, Amarjit, the present petitioner-Mohinder and to Manga of Pehowa. The petitioner is managing a small hotel which is owned by his wife. The hotel

is raided by the NCB and 450 grams opium is alleged to have been recovered from a bathroom attached to a room in the hotel. A DVR of CCTV footage is taken in the possession which indicates that co-accused, namely, Dinesh Kumar and Ram Niwas had visited the hotel premises on 07.05.2019. Learned counsel further contends that recovery of 450 grams opium which is stated to have been effected from the petitioner is of non-commercial quantity for which a separate complaint has been filed against him and he is in custody in that case as well. He further contends that the petitioner, who is 64 years of age, is diabetic and he had earlier been granted interim bail by the trial Court on 04.12.2019 as he had to be operated for Hernia. The operation got delayed as the petitioner was diabetic. The petitioner is in custody for over 1 ½ years and the trial has made no headway due to COVID-19 pandemic, since the filing of the chargesheet on 19.03.2020.

Learned counsel for the respondent/NCB, however, contends that the allegations against the petitioner are very serious. The petitioner was also involved in another case under the NDPS Act, although he had been acquitted at the conclusion of the trial. The name of the petitioner was disclosed by co-accused, Dinesh and Ram Niwas from whom heavy recovery had been effected. They were found to be staying at the hotel of the petitioner about a week prior to the alleged recovery. The recovery of 450 grams opium had been effected from the hotel of the petitioner. He further contends that there is no delay on the part of the NCB as they had promptly filed the chargesheet and therefore, the trial could not progress due to COVID-19 pandemic. He also

contends that in view of the serious allegations against the petitioner as being an accused under the NDPS Act, he is not entitled to the concession of regular bail.

Heard through video conferencing.

The petitioner is about 64 years of age and is diabetic. In the order of the trial Court dated 09.12.2019 (Annexure P-2) whereby the petitioner was granted interim bail, it was stated that he was unwell and was suffering from diabetes. The recovery of only 450 grams opium (non-commercial) is alleged to be effected from a room in the hotel of the petitioner. Separate complaint has been filed in this regard and the petitioner is in custody in that case. It would be arguable as to whether the petitioner is involved in the commission of the offence as he was arraigned as an accused on the statement of co-accused from whom the recovery had been effected in the instant case. The petitioner is in custody for over 1 ½ years and after filing of the chargesheet, no witness has been examined and the trial has come to a standstill due to COVID-19 pandemic. In view of the above, I deem it a fit case to grant the concession of regular bail to the petitioner.

Therefore, without expressing any opinion on the merits of the case, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing requisite bonds to the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.

(ANUPINDER SINGH GREWAL)
JUDGE

December 16, 2020

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Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No