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

CRM-M-1830-2021

Date of decision-21.01.2021

Sahab Singh**....Petitioner****Vs.****State of Haryana****...Respondent****CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ**

Present: Mr. Anupinder Singh Brar, Advocate for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

*********MANOJ BAJAJ, J.**

Petitioner has filed this petition under Section 439 Cr.P.C for grant of regular bail pending trial in case FIR No.30 dated 30.01.2020 registered under Section 15 (c) Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Farrukh, District Gurugram. The petitioner is in custody since his arrest on 30.01.2020.

The FIR was registered on the statement of ASI Naresh and the allegations as noticed by learned Additional Sessions Judge, Gurugram in order dated 19.05.2020 read as under:-

“That present case was registered on the statement of complainant ASI Naresh while maintaining that on 30.01.2020, he alongwith other police officials was present at Toll Plaza, Rewari-Jhajjar Road, in connection with patrolling duty. At that time, one Swift vehicle bearing registration No.HR-60-E-6939 was seen coming from Rewari. ASI Naresh was having some suspicion over it and on the basis of suspicion, he had chased the vehicle. He informed his colleagues in the control room and

directed them to place the barricade. In compliance of the order, naka was held at Pataudi Road. ASI Naresh along with his colleagues was searching the said vehicle. When they reached near village Jhund Sarai Bus stand, they saw two persons while changing the number plate of a car. They both were apprehended by the police officials whereupon they disclosed their name as Sahab Singh (petitioner) and Balwinder. On suspicion of intoxicating substance, notice under Section 50 NDPS Act was served upon both of them. One gazetted officer was called at the spot and their personal search was conducted. On the search of vehicle, six plastic bags were found in the dicky and middle of the seat from which narcotic substance i.e. Chura Post measuring 70 K.G was recovered. They had failed to produce any licence or permit for retaining the illegal narcotic. On this present FIR was lodged.”

Learned counsel for the petitioner contends that the recovered contraband (70 K.G poppy husk) is slightly above the non-commercial quantity and till date no prosecution witness has been examined. He submits that the petitioner is not involved in any case much less of the similar nature and therefore, his further custody may not be necessary. He prays that the petitioner be released on bail during the pendency of the trial.

On the contrary, learned State counsel assisted by SI Suresh Kumar has opposed the prayer on the ground that the recovered contraband would fall within the ambit of commercial quantity. However, it is not disputed that the petitioner is not involved in any other case of the similar nature. Further on instructions he states that the charges in the case were framed on 15.10.2020, however, no prosecution witness has been examined so far.

After hearing the learned counsel for the parties, this Court

finds that though the charges were framed on 15.10.2020, but the trial is yet to commence. Considering the custody of the petitioner and the fact that he is not involved in any other similar case, his further detention may not serve any useful purpose. This Court is cognizant of the fact that the outbreak of pandemic COVID-19 in the region may further delay the conclusion of trial.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

21.01.2021

vanita

Whether speaking/reasoned :
Whether Reportable :

Yes
Yes

(MANOJ BAJAJ)
JUDGE

No
No