In the High Court for the States of Punjab and Haryana
At Chandigarh

CRM-M-1611-2020 (O&M)
Date of Decision:-16.9.2021

Narinder Kumar @ Nindi … Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Yashpal Thakur, Advocate for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab,
assisted by ASI Rajinder Pal.

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GURVINDER SINGH GILL, J.(Oral)

1. The petitioner seeks grant of regular bail in respect of a case registered vide FIR No.366 dated 25.7.2018 at Police Station Focal Point, District Ludhiana under Section 22 of Narcotic Drugs & Psychotropic Substances Act, wherein offences under Sections 27-A and 29 of NDPS Act were added later on.

2. As per the case of prosecution, the petitioner Narinder Kumar @ Nindi alongwith Yogesh was apprehended by the police. While the petitioner was found in possession of 335 grams of '*heroin*',which he was carrying in a polythene bag, the co-accused Yogesh was found in possession of 265 grams of '*heroin*', which he was carrying in a separate polythene bag.

3. Learned counsel for the petitioner has submitted that in the instant case a joint offer in terms of Section 50 of NDPS Act was extended to the accused,

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which cannot be said to be a valid offer. It has further been submitted that the petitioner, in any case, cannot be attributed conscious possession of the contraband being carried by co-accused. Learned counsel has submitted that since the petitioner has been behind bars since the last more than 3 years and has a clean record, he deserves the concession of bail.

4. Opposing the petition, learned State counsel has submitted that even if the recovery in respect of co-accused is ignored, still the quantity of contraband recovered from the petitioner, which is 335 grams of '*heroin*', would qualify to be termed as 'commercial' quantity and that in these circumstances the petitioner is disentitled for grant of bail. Learned State counsel has, however, informed that the petitioner has been behind bars since the last more than 3 years and that he is not involved in any other case registered under NDPS Act. It has also been informed that as on date only 5 out of the cited 27 PWs have been examined and that another 2 have been given up.

5. I have considered rival submissions addressed before this Court.

6. Without commenting as regards merits of the case but while noticing that the petitioner has been behind bars for a substantial period of more than 3 years and has a clean record and that conclusion of trial is likely to consume time as only 5 out of the cited 27 PWs have been examined so far, further detention will not serve any useful purpose. The petition, as such, is accepted and the petitioner is ordered to be released on bail subject to his furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

16.9.2021 **(Gurvinder Singh Gill)**
Judge

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

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