

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

CRM-M-3470 of 2021

DATE OF DECISION: 12.08.2021

Sonu @ Sonu Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Gurjot Singh Sadhrao, Advocate,
for the petitioner.

Mr. Bhupender Beniwal, AAG, Punjab.

(Presence marked through video conferencing).

ARUN MONGA, J. (ORAL)

This is second foray of petitioner before this court, seeking regular bail in FIR No. 50 dated 14.04.2020, registered under Sections 21 and 25 of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Special Task Force, Phase IV, District Mohali, Punjab, having got the earlier petition dismissed as withdrawn on 30.10.2020.

2. Per prosecution, on 14.04.2020, a police party while on routine patrol received a secret information that one Nachattar Singh son of Mukhtiar Singh and his son Sonu Singh @ Sonu (petitioner herein), both residents of Barnala, indulge are indulging in sale of Heroin in a Celerio car, bearing registration No. PB-19-S-3634. The said secret information was reduced into writing and sent to police station for registration of a case. A barricade was set up, both the aforesaid accused were apprehended. Upon search, 330 grams of Heroin was recovered from co-accused but alleged to

be from both the accused jointly and later further 20 grams of Heroin was recovered from the present accused/petitioner.

3. Learned counsel for petitioner argues that petitioner has been falsely implicated in the case. The alleged recovery was not made from the conscious possession of the petitioner. The same was recovered from the car, in which he was merely an occupant. According to him, there has been violation of provisions of Sections 50 of the NDPS Act.

4. On antecedents of the petitioner, learned counsel submits that the petitioner is having clean record. Except the case in hand, the petitioner is not involved in any other case. He submits that no useful purpose would be served by keeping the petitioner in preventive custody any more.

5. Learned counsel further contends that petitioner is a young boy who after getting married recently has been blessed with a son, while he was still in custody. He has not even seen the face of his child. He is the sole bread winner of his family and his young wife and child are living in penury and facing extreme financial hardship since the petitioner continues to be in custody. Challan has been presented and charges have already been framed. Now the case is fixed for prosecution evidence.

6. Per contra, learned State counsel opposes the bail plea. According to him, the petitioner and his co-accused were found in possession of 330 grams of heroin. There is every apprehension that he might again indulge in similar offence, if released on bail.

7. I have heard rival contentions of the respective learned counsels.

8. The contentions of learned counsel for petitioner, as noted aforesaid, may have substance but same can only be adjudged at the time of trial. The plea of conscious possession has also to be adjudicated at the trial. The petitioner is in custody since 14.04.2020. He is not involved in any other case. Investigation is already over, charges have been framed and the case before the trial court is

now fixed for prosecution evidence. The trial is not likely to conclude anytime soon in view of the situation that has arisen due to pandemic.

9. All the prosecution witnesses are police officials. There thus seems no apprehension that petitioner would influence or pressurize the witnesses.

10. Considering the overall scenario, without commenting on the merits of the case, this petition is allowed. I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody.

11. Accordingly, petitioner shall be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/ Duty Magistrate, as the case may be.

12. 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.

AUGUST 12, 2021
Shalini

(ARUN MONGA)
JUDGE

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