

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

CRM-M-3393-2021

Date of Decision:09.03.2021

Raju @ Jaswinder

...Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARUN MONGA

Present: - Mr.Munish Kamboj, Advocate,
for the petitioner.

Ms.Mamta Talwar, DAG, Haryana.

ARUN MONGA, J. (ORAL)

1. Through this second bail application, petitioner is seeking regular bail in FIR No. 101 dated 16.3.2020, registered under Sections 21-b and 27-A of Narcotic Drugs and Psychotropic Substances Act, 1985, Police Station Sadar, Fatehabad, having got the earlier petition dismissed by this court on 02.11.2020.

2. Per prosecution, on 16.03.2020, while a police party was on routine checking of vehicles, main accused Gurmeet @ Meeta was caught on suspicion. He was seen walking when he tried to avoid the police party. On his personal search, 10.70 grams of heroin contained in a transparent pouch was recovered. An FIR was registered and he was arrested. During his custodial interrogation, name of the petitioner figured in his disclosure statement, leading to arrest of the petitioner on 30.4.2020.

3. Learned counsel for petitioner argues that neither the petitioner was arrested from the spot nor anything was recovered from him. The

petitioner has been falsely implicated in the present case. It is further submitted that the alleged recovery from prime accused, in any case, falls within non-commercial quantity. According to learned counsel, the petitioner has been implicated in the case on the basis of disclosure statement made by the co-accused while in police custody, which is not legally admissible in evidence and carries no sanctity.

4. On antecedents of the petitioner, learned counsel submits that the petitioner was/is nominated in 5 more FIRs. Out of which, he has been acquitted in 3 FIRs and in 2 cases trial is still going on. According to him, petitioner has been falsely implicated in both the pending cases.

5. Per contra, learned State counsel opposes the bail plea. According to him, the petitioner is a habitual offender and there is every apprehension that he might again indulge in similar offence, if released on bail.

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

7. The contentions of learned counsel for petitioner, as noted aforesaid, may have substance but same can only be adjudged at the trial. Concededly, nothing was recovered from the petitioner and his involvement has been revealed pursuant to the custodial disclosure of the co-accused. Since 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 soon in view of the situation arisen due to pandemic.

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

9. 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.

10. 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.

11. 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.

(ARUN MONGA)
JUDGE

09.03.2021

Vivek

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