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

(Through Video-conferencing)

**CRM-M No.5991 of 2021(O&M)
Date of Decision:13.08.2021**

SUKHMANDER SINGH

.....Petitioner

Vs

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. N.S Sodhi, Advocate
for the petitioner.

Mr. Bhupender Beniwal, Asstt. AG, Punjab.

RAJ MOHAN SINGH, J.(Oral)

CRM No.12156 of 2021

This is an application for placing on record
accompanying documents i.e. Annexures A6 to A-9.

For the reasons mentioned in the application, the
same is allowed. Accompanying Documents viz. consent memo,
non-consent memo, recovery memo, order dated 12.11.2020
and order dated 16.08.2017 are taken on record subject to all
just exceptions.

Main case

Petitioner seeks grant of regular bail under Section
439 Cr.P.C in case bearing FIR No.115 dated 07.09.2020,

registered under Sections 22 and 25 of NDPS at Police Station Sadar Moga, District Moga.

As per prosecution case, written ruqa was received from ASI Nirmal Singh that one Verna car was being driven by the petitioner and the same was stopped near Baba Kala Mehar place and some regular officer be sent. On receipt of the information, SI Balwinder Singh along with Police staff reached the spot. ASI Nirmal Singh was present along with other Police officials, one person and Verna car. On being asked the person disclosed his name as Sukhmander Singh. After issuance of notice under Section 50, the accused opted for his search to be conducted by some Gazetted Officer. DSP, City Moga was called at the spot. Two heavy black colour polythene, one big and one small polythene were recovered. On being checked 725 strips each having 10/10 tablets of CLOVIDOL-100-SR were recovered. Strips were having batch number and other particulars. 550 loose tablets of light pink colour besides 7250 tables were also recovered.

Learned counsel for the petitioner submits that perusal of consent memo would show that signatures of Sukhmander Singh appears at one place. Non-consent memo has two signatures of Sukhmander Singh, parallely placed having recital of no objection qua his search and search of Verna car by the

Gazetted Officer. The recovery memo prepared at the spot carries no signature of the petitioner. The recovery memo has FIR number at the top of it.

Learned counsel for the petitioner places reliance upon **Sandeep Kumar vs. State of Punjab, 2019 (4) RCR (CrI.) 741** and **Ajay Malik vs. State of UT, 2009 (3) RCR (CrI.) 649** to contend that non-availability of signature of the petitioner on recovery memo and presence of FIR number at the top of recovery memo would make the case debatable. Co-accused Ram Nath has been granted regular bail by this Court vide order dated 01.04.2021 passed in CRM-M No.1525 of 2021 on the premise that he was nominated on the basis of disclosure statement of the petitioner and Ram Nath is a chemist. Petitioner is in custody since 07.09.2020.

Learned State counsel however, opposed the bail on the premise that recovery effected from the petitioner is of commercial nature. The documents produced by the petitioner in the form of consent memo, non-consent memo and recovery memo would be gone into by the trial Court at the appropriate stage. After filing of challan, charges have not been framed.

Trial of the case may take some time in its culmination.

Looking to the aforesaid facts and in view of the situation arising out due to COVID-19 pandemic, I deem it appropriate to enlarge the petitioner on regular bail without advertng to the merits of the case.

In view of above, petition is allowed. Petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

(RAJ MOHAN SINGH)
JUDGE

13.08.2021

Amandeep

Whether speaking/reasoned Yes/No

Whether reportable Yes/No