

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

Sr. No.207

CRM-M No.9107 of 2021

DATE OF DECISION: 24.08.2021

Tobbi Moise

.....Petitioner

Versus

State of Punjab

.....Respondent

(Heard through Video-Conferencing)

CORAM:- HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Gulzar Mohammad, Advocate for the petitioner.

Ms. Samina Dhir, D.A.G., Punjab.

MEENAKSHI I. MEHTA, J. (ORAL)

The petitioner herein seeks the relief of regular bail in the criminal case pertaining to the FIR bearing No.291 dated 25.11.2018 registered at Police Station Samrala, District Ludhiana, under Sections 21 and 29 of the Narcotic Drugs and Psychotropic Substances Act 61 of 1985 (for short 'the NDPS Act'), with the allegations of his having been found in possession of 1 Kg 500 grams heroin and 15 grams cocaine.

Short reply filed on behalf of the respondent-State, by way of the affidavit of Deputy Superintendent of Police, Samrala, Police District Khanna, District Ludhiana, is already available on the file and the same is taken on the record.

I have heard learned counsel for the petitioner as well as learned State counsel in the present petition and have also perused the file thoroughly.

Learned counsel for the petitioner contends that the petitioner has been in the custody since the date of his arrest, i.e. 25.11.2018 and the

trial is still pending and in these circumstances, the petitioner deserves the relief as prayed for in this petition.

Per contra, learned State counsel argues that the quantity of the heroin recovered from the petitioner falls within the category of “Commercial Quantity” and moreover, he is a foreign national and in view of the gravity of the offence committed by the petitioner, the instant petition deserves dismissal.

15 grams cocaine and 1.5 Kg heroin are alleged to have been recovered from the possession of the petitioner. The above-said quantity of heroin comes under the category of “Commercial Quantity”. It being so, the provisions of Section 37 of the NDPS Act would be applicable to the present case and in such eventuality, mere custody period of the petitioner does not suffice at all to wriggle out of the rigour of the above-mentioned provisions. Moreover, as mentioned in the FIR itself, the petitioner is a Nigerian National meaning thereby that he is not a permanent resident of India.

Keeping in view the above-discussed facts and circumstances as well as the gravity of the offence as alleged to have been committed by the petitioner in the present case, this Court is of the considered opinion that he does not deserve the relief of regular bail.

Resultantly, the petition in hand stands dismissed accordingly.

August 24, 2021
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(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No