

CRM-M-12908 of 2021

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

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CRM-M-12908 of 2021 (O&M)

Date of decision:27.10.2021

Vijay Chaudhary

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Shailendra Sharma, Advocate and
Mr. Vinod Kumar Sharma, Advocate, for the petitioner.

Mr. Saurabh Girdhar, AAG, Haryana.

SUVIR SEHGAL J.

This is the second petition filed under Section 439 of the Code of Criminal Procedure seeking grant of regular bail to the petitioner in case FIR No.169 dated 21.04.2020 (Annexure P-1) registered under Section 21(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “the NDPS Act”), Section 25 of Arms Act, 1959 and Sections 188, 269 of Indian Penal Code, 1860 (Section 29 of the NDPS Act, has been added subsequently) at Police Station City Tohana, District Fatehabad (Haryana).

As per the version of the prosecution, on the basis of prior information, a Swift Car with three occupants, which was being driven on a highway, was intercepted. Upon enquiry, the occupants of front seats, who were in police uniform, disclosed their names as Pardeep and Vijay Chaudhary (present petitioner) and claimed to be posted as Constable with Uttar Pradesh Police. The occupant of rear seat was a young man, named,

Sourav alias Channa. On search of the vehicle, 938 grams of heroin and a carbine were recovered. The petitioner was arrested at the spot.

Counsel for the petitioner submits that a false case has been foisted upon the petitioner and he is totally innocent. He submits that no recovery has been effected from the person of the petitioner, rather the alleged contraband was lying near the gear box of the car. He submits that the mandatory provisions of Section 50 have not been complied with and the entire police proceedings pertaining to search and seizure are violative of the established procedure. He has placed reliance upon the orders dated 09.11.2020 and 15.02.2021, Annexures P-6 and P-7, respectively, whereby, co-accused, Sarabjeet and Ram Lakhan alias Lakhan have been granted regular bail by this Court. He submits that the petitioner is no longer required for custodial interrogation as the challan against him has been presented and he deserves to be enlarged on bail.

Opposing the prayer, learned State counsel upon instructions from SI Baldev Raj submits that recovery has been effected from a vehicle in which the petitioner was travelling, therefore, there is no requirement of complying with the provision of Section 50 and bar as laid down in the NDPS Act, is attracted which does not entitle the petitioner to be released on bail. He submits that on the instance of the petitioner, the place from where he had purchased country-made pistol in Aligarh (U.P.) has been demarcated and the petitioner, who has a criminal past, is not entitled to the grant of bail.

I have considered the rival submissions of counsel for the

parties.

The contraband recovered from the vehicle in which the petitioner was travelling falls within the ambit of commercial quantity as per the notification issued under the NDPS Act and the rigour of Section 37, is attracted. Besides this, a carbine has also been recovered from the vehicle on which the petitioner was travelling in a police uniform, who falsely claimed himself a member of disciplined force of another State. This fact in itself casts doubt on the intention of the petitioner. Even though the proceedings before the Court are at their initial stage, but the fact that the first petition preferred by the petitioner (CRM-M-38378 of 2020) was dismissed, after arguments, on 05.01.2021 and there is no change in the situation or circumstances, dis-entitles the release of petitioner on bail. The grant of bail to the two co-accused does not help the petitioner as both of them were neither arrested at the spot, nor recovery of any contraband was effected from them and they were arraigned as accused on the basis of a disclosure statement of another co-accused. The submissions made by counsel for the petitioner do not cut any ice. Petition being bereft of any merit, deserves to be dismissed.

It is clarified that nothing said hereinabove shall be construed to be an expression on the merits of the case.

(SUVIR SEHGAL)
JUDGE

October 27, 2021
savita

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes