

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

**CRM-M No.13896 of 2020 (O&M)
Date of Decision:01.04.2021**

NAYAK RAHUL

...Petitioner

Versus

STATE OF PUNJAB

..Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Suvir Sidhu, Advocate
for the petitioner.

Mr. Saurav Khurana, DAG, Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

This petition is filed under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.2 dated 07.01.2020 registered under Sections 411, 414 IPC and Sections 21/23/25 NDPS Act (Sections 61/85 of NDPS Act and Section 25/54/59, added later on), at Police Station Gharinda, Amritsar Rural, District Amritsar.

Custody certificate dated 1.04.2021 by way of affidavit of the Deputy Superintendent, Central Jail, Amritsar, filed by the State through e-mail, is taken on record.

As per the version contained in the FIR, a secret information was received by the police that Dharminder Singh alongwith Ajay Pal Singh, Paramjit Singh, Balkar Singh, Rahul Chauhan and some other

persons, had made a gang which was involved in drug trafficking as also supply of arms with the help of Drones and that a few days back, they had received a consignment of heroin thorough Drones.

Learned counsel for the petitioner states that the alleged recovery effected from the petitioner is Drone Box, Magazine and Upon D/s-Drone-6 fans and 12 batteries. He further states that neither the petitioner was found in possession of any contraband nor there was any definite evidence regarding recovery of any contraband from the petitioner and, therefore, the present case does not fall under the provisions of the NDPS Act and rather the same would fall under the provisions of the Aircraft Act, 1934 as amended by the Act No.13 of 2020. Section 12B of the said Act, provides for filing of a complaint and the offence if any, committed under the said Act, would entail the maximum punishment of two years.

Learned counsel for the petitioner further states that there is no occasion for the petitioner to retain the drone illegally. It is yet further submitted that as per the Notification dated 13.01.2020 issued by the Government of India, one time opportunity had been provided for voluntary disclosure of possession of drones and such notification being at a later point of time than the registration of the FIR, the implication of the petitioner is totally untenable.

Learned counsel for the petitioner further states that there is no other case pending/registered against the petitioner under the NDPS Act and he has been in custody since 09.01.2020. He further states that co-accused namely, Sarvoydya Rakesh Bahri and Rishabh Arora have already been

granted bail in CRM-M-11296-2020, passed by a co-ordinate Bench of this Court vide its order dated 25.11.2020.

While opposing the prayer for grant of bail, learned State counsel, submits that a gang was operating across the border and even the petitioner- Nayak Rahul Chauhan, being Army personnel, was involved in this case. He further states that the case before the trial Court is now fixed for framing of the charges on 07.05.2021 and material witnesses are yet to be examined.

I have heard the learned counsel for the parties.

The petitioner has been in custody since 09.01.2020. No contraband was recovered from the petitioner. The trial will take time to conclude and, thus, no useful purpose would be served by keeping the petitioner behind the bars. Moreover, co-accused of the petitioner have already been granted concession of regular bail by a Coordinate Bench of this Court.

In view of the above, without commenting anything on the merits, lest it should prejudice the case of either side, the petition is allowed and the petitioner is ordered to be released on regular bail to the satisfaction of the learned trial Court/Duty Magistrate.

(HARNARESH SINGH GILL)

JUDGE

April 01, 2021

Jyoti-IT Whether speaking/reasoned Yes/No Whether Reportable Yes/No