

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

**CRM-M-14170-2020 (O&M)**

**Date of Decision: 09.03.2021**

Harish Kumar @ Monu

...Petitioner

Versus

State of Punjab

...Respondent

**CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL**

Present: Mr. Barjinder Singh, Advocate, for  
Mr. Prateek Pandit, Advocate, for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab.  
assisted by ASI Kuldeep Singh.

**GURVINDER SINGH GILL, J. (Oral)**

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against him vide FIR No.49 dated 15.03.2020 at Police Station Shahkot, District Jalandhar (Rural), under Sections 21/25 of the NDPS Act, wherein it is alleged that on 15.03.2020, two persons, who were travelling in a car, were apprehended by the police and their search led to recovery of a polythene packet, which upon checking was found to contain heroin. The driver of the car disclosed his name as Harish Kumar @ Monu (petitioner), whereas the other person disclosed his name as Sanjeev Kumar @ Jony.
2. Learned counsel for the petitioner has submitted that he has falsely been implicated in the present case and that in any case even if the allegations as levelled in the FIR are taken to be correct, the

recovered quantity cannot be said to be falling in the category of 'commercial quantity' inasmuch as the packet containing heroin was weighed with the polythene bag in which it was contained and since the total weight of the polythene and the heroin was 256 grams, it will be doubtful as to whether the recovered quantity is a 'commercial quantity'.

3. Opposing the petition, learned State counsel has submitted that although in the FIR it is not very clear that as to whether the contraband was weighed along with the polythene bag, but at the time of recovery, the heroin was indeed found contained in a polythene bag. Learned State counsel has further submitted that in any case since the petitioner had earlier remained involved in 3 other cases including cases registered under the NDPS Act, no case for grant of bail is made out.
4. At this stage, learned counsel representing the petitioner has clarified that while the petitioner stands acquitted in two of the cases registered under the NDPS Act, whereas the third case pertains to recovery of a 'non-commercial quantity' in which he has already undergone the sentence.
5. I have considered rival submissions addressed before this Court.
6. Having regard to the facts and circumstances of the case, it would be debatable as to whether the recovered contraband can be said to be falling in the category of 'commercial quantity' since as per the case of the prosecution, the recovered contraband was marginally more than the prescribed quantity and it appears that the same was weighed along with the polythene bag. In any case, since the

petitioner as on date has been behind bars since the last about 1 year and the conclusion of trial is likely to consume time since the trial is yet to commence as even the charges have not been framed so far, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on their furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

**09.03.2021**

Vimal

**(GURVINDER SINGH GILL)  
JUDGE**Whether speaking/reasoned: **Yes/No**Whether reportable: **Yes/No**