

222 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-21678-2021
DECIDED ON: 28th JUNE, 2021

MAJNU SEKH

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Punit Malik, Advocate for the petitioner.

Mr. Deepak Bhardwaj, DAG, Haryana.

AVNEESH JHINGAN, J (ORAL)

The matter is taken up for hearing through video conference due to COVID-19 situation.

This is a petition seeking regular bail in FIR No. 315, dated 7th September, 2020, under Sections 21(c), 29(1) of Narcotics Drugs and Psychotropic Substances Act, 1985 and 34 IPC registered at Police Station, City Sohna, District Gurugram.

The police acting on a secret information. On 7th September, 2020 during checking recovered 798 grams of smack from a vehicle bearing registration No. HR-26-EB-5938. Minarule, Mojidar Sekh and Majnu (petitioner) were the occupants of the vehicle.

Learned counsel for the petitioner submits that the investigation is complete and no recovery is to be made. He further submits that the challan was presented without the FSL report. He relies upon the decision of this Court in **Satnam @ Dhamu vs. State of Haryana**, CRR No. 62 of 2021 decided on 26th February, 2021.

Learned State counsel, on instructions from ASI Mahavir Singh

submits that the challan was presented on 3rd December, 2020. However,

FSL report was received on 26th March, 2021. Learned State counsel brought to the notice of this Court that as per the FSL report received, the recovered substance is opium and not Smack. Learned State counsel opposes the bail but he is not in a position to distinguish the present case vis-a-vis the case relied upon by the petitioner.

The issue in the present petition is that in case of filing of the challan without FSL report tantamount to filing incomplete challan. The issue was referred to a Division Bench and interim bail was granted in those cases.

The operative part of order in case of ***Suresh Versus State of Haryana***, CRR No. 1135 of 2020 decided on 18.11.2020 mentioned in ***Satnam @ Dhamu's case (supra)***, is quoted below:

*"Taking into account all the above circumstances, the Criminal Revision Petition is allowed at this stage and the petitioner is permitted to be conditionally released on bail to the satisfaction of the Ld. Trial Court concerned. It is however clarified that in case of any different result coming forth from that in the decision in **Ajit Singh alias Jeeta's case (supra)**, the State would be at liberty to seek cancellation/modification of this order, if warranted at that stage."*

The present petition is disposed of in the same terms as in CRR No. 62 of 2021.

28th JUNE, 2021

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**(AVNEESH JHINGAN)
JUDGE**

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*