

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

**CRM-M-18811 OF 2021 (O&M)
DATE OF DECISION : 25.05.2021**

Arshdeep Singh

...Petitioner

versus

State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. G. C. Shahpuri, Advocate,
for the petitioner.

Mr. Tapan Kumar, DAG, Haryana.

(Presence marked through video conference).

ARUN MONGA, J. (ORAL)

The petitioner is seeking regular bail in case FIR No.232 dated 31.03.2021 registered under Section 22 of NDPS Act, at Police Station, City Yamuna Nagar, District Yamuna Nagar.

2. Per FIR allegations, on 31.03.2021 SI Dharam Singh along with other police officials was present at Mahrana Partap Trikona Park, Chota Model Town, Yamuna Nagar in connection with patrolling duty, where he received a secret information that petitioner is indulging in sale of Smack and if raid is conducted he can be caught red handed. Accordingly, Notice under Section 42 of NDPS Act was prepared and sent to Deputy Superintendent of Police, Yamuna Nagar through Constable Sandeep Kumar. A Tehrir was also sent to police station, on the basis of which formal FIR was registered. ASI Dilbagh Singh also reached the spot. Thereafter, raiding party was constituted and raid was conducted. The accused was apprehended. Notice under Section 50 of NDPS Act was served upon him.

Since the accused (present petitioner) opted to get himself searched from a Gazetted officer, accordingly, Shri Pravin Kumar, Athletic Coach, Sports and Youth Welfare Department, Yamuna Nagar was joined who conducted personal search of the accused. Upon search, 07 grams of Smack was recovered from his possession which was taken into possession. Investigation was then carried out.

3. The petitioner is stated to be in custody since 31.03.2021.

4. Learned counsel for petitioner submits that petitioner has been falsely implicated in the present case. Nothing was recovered from the conscious possession of the petitioner. The alleged recovery falls within non-commercial quantity. FSL report is yet to be received. He further submits that there has also been violation of mandatory provisions of NDPS Act as the petitioner was not personally searched by a Gazetted Officer. It is further contended that though two more cases are registered against the petitioner, but he is on bail in both the cases.

5. Learned counsel further argues that petitioner is a young man of 22-23 years at the cross roads of his career building stage and is behind the bars since the date of his arrest. The investigation is complete and challan has been presented. He also submits that most of the prosecution witnesses are police officials and there is no chance of petitioner influencing or threatening them.

6. Per contra, learned State counsel opposes the bail plea. He submits that petitioner is a habitual offender. He is involved in two other cases, out of which one is of NDPS Act.

7. I have heard the rival contentions of the respective learned counsels.

8. The contentions of learned counsel for petitioner, as noted aforesaid, may have substance but same can only be adjudged at the trial. Since investigation is complete and challan has been presented, the trial is not likely to commence or conclude soon in view of the situation arisen due to pandemic.

9. All the prosecution witnesses are police officials. There thus seems no apprehension that petitioners would influence or pressurize the witnesses.

10. Petitioner is no more required for any further custodial interrogation. Trial of the case will take long time in view of delays being caused by current pandemic. Considering the overall scenario, without commenting on the merits of the case, the instant petition is allowed. I am of the view that no useful purpose would be served to keep the petitioner in further preventive custody.

11. Accordingly, petitioner shall be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/ Duty Magistrate/Illaqqa Magistrate, as the case may be.

12. It is, however, made clear that in case the petitioner is found involved in any other case of similar nature while on bail, the prosecution shall be at liberty to seek cancellation of his bail.

MAY 25, 2021
Shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No