

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M No.19940 of 2021
Date of Decision: July 26, 2021

Vijay Mahto

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

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

Mr.B.S. Sewak, Additional Advocate General, Punjab.

SUDIP AHLUWALIA J. (ORAL)

The instant Petition has been filed under Section 439 of the Code of Criminal Procedure seeking Regular Bail on behalf of the Petitioner in case FIR No.0032, dated 17.02.2021 registered under Section 18 of the Narcotic Drugs and Psychotropic Substance Act, 1985 at Police Station Division 8, District Police Commissionerate Jalandhar.

2. Initially 01 kilogram of Opium was recovered from the co-accused-Aamir Khan. The Petitioner was arrested alongwith said Aamir Khan on 17.02.2021. Subsequently, an additional quantity of 1.700 kilograms of Opium was allegedly recovered from the residential premises of the petitioner on the next morning.

3. Submission of Ld. Counsel for the petitioner in this regard is that such recoveries effected at different times and from different places cannot be clubbed together for making out a case that contraband is more than commercial

quantity as recovered from an accused In this regard, he relies upon the Judgments titled as Amarsingh Ramjibhai Barot Vs. State of Gujarat, 2005 (7) SCC 550, Jai Parkash Sahni Vs. State of Punjab passed in CRM-M No.17590 of 2020 and Raj Karan singh @ Rajan Vs. State of Punjab passed in CRM No.17321 of 2015

4. Submits further that in any case the total recovered quantity itself would marginally above the commercial quantity of 2.500 kilograms of Opium, and relies upon the decision passed by Hon'ble Co-ordinate Bench of this Court in CRM-M No.24344 of 2014 titled as Vadhawa Ram Vs. State of Punjab decided on 22.08.2014, in which Regular Bail was granted to the persons from whom recovery of 2.600 kilograms recovery of opium was effected.

5. After completion of investigation, challan against the petitioner has already been submitted but the trial is yet to commence. Further, there is no record of involvement of the petitioner in any other case under the NDPS Act.

6. In the circumstances, without commenting upon the other merits of the case and keeping in view the fact that the trial is likely to take a considerable time to conclude in view of the on-going Covid-19 Pandemic, at this stage, this Court is of the opinion that further detention of the Petitioner for an indefinite period is not justified. As such, he is ordered to be released on bail subject to the satisfaction of the Ld. Trial Court/Duty Magistrate concerned.

7. Disposed off.

(SUDIP AHLUWALIA)
JUDGE

July 26, 2021
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Whether speaking/reasoned: Yes/No.
Whether reportable: Yes/No