

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

**CRM-M-21031 of 2021 (O & M)
DATE OF DECISION : 15.06.2021**

Sukhdev Singh

...Petitioner

versus

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Ashok Giri, Advocate,
for the petitioner.

Mr. Amit Mehta, Sr. DAG, Punjab.

(Presence marked through video conference).

ARUN MONGA, J. (ORAL)

The petitioner is seeking regular bail in FIR No.285 dated 31.08.2019 registered under Sections 21 & 22 of NDPS Act, at Police Station Sohana, District SAS Nagar.

2. Per FIR, on 31.08.2019 during Nakabandi, petitioner was found in possession of 10 grams of intoxicating powder, whereas co-accused Gurpreet Singh was found in possession of 50 grams of intoxicating powder and 50 injections of Buprenorphine and Parveen Lata was found in possession of 30 grams of intoxicating powder and 20 injections of Buprenorphine, without any permit or licence.

3. The petitioner and co accused were arrested. Petitioner is stated to be in custody since 31.08.2019.

4. Learned counsel for petitioner contends that the alleged recovery of 10 grams of intoxicating powder (heroin) affected from the petitioner falls within the non-commercial quantity. The Court below has

wrongly invoked the provisions of Section 37 of the Act. He further submits that there has also been violation of mandatory provisions of NDPS Act. The complainant himself is the investigating officer of the case, which is not permissible as per law.

5. Learned counsel further contends that co-accused of the petitioner namely Parveen Lata from whom 30 grams of intoxicating powder (heroin) and 20 injections of Buprenorphine were recovered, has already been granted the concession of regular bail by a co-ordinate Bench of this Court vide order dated 17.08.2020 passed in CRM-M-7053 of 2020. He submits that on the ground of parity alone, the petitioner is entitled to be enlarged on bail, at this stage. Since the trial is not likely to commence or conclude anytime soon due to the current pandemic scenario as the Courts are working in restricted manner. He further argues that no independent witness was joined, though the alleged recovery was from a thoroughfare.

6. Per contra, learned State counsel opposes the bail plea. He submits that the whole quantity of the contraband has to be collectively taken into account. Total quantity being 160 grams of Buprenorphine injections, falls within the commercial quantity. All the accused were together at the time when recovery was effected from them. According to him, rigors of Section 37 of NDPS Act would attract to the case of petitioner, which prohibits grant of bail in case of recovery of commercial quantity.

7. The contentions of learned counsel for petitioners, as noted aforesaid, may have substance but same can only be adjudged at the trial. Since investigation is already over and charges have been framed, the case before the trial court is now fixed for prosecution evidence. The trial is not

likely to conclude soon in view of the current situation that has arisen due to pandemic.

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

10. Investigation is over and challan has been filed. The 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. Therefore, no useful purpose would be served by keeping the petitioner in further preventive custody.

11. All the prosecution witnesses are police officials. There, thus, seems no apprehension that petitioner would influence or pressurize the witnesses.

12. Having perused the order dated 17.08.2020 passed by a co-ordinate Bench of this Court, on the ground of parity also, the petitioner is entitled to grant of concession of regular bail.

13. Considering the overall scenario, without commenting on the merits of the case, the instant petition is allowed. The petitioner shall be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/Duty Magistrate, as the case may be.

14. 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.

JUNE 15, 2021
Shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned :
Whether reportable :

Yes/No
Yes/No