

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH
(218)**

**CRM-M-22201-2021
Date of decision:-22.07.2021**

Harchand Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Vijay K. Jindal, Advocate
for the petitioner.

Mr. Sandeep Singh Deol, DAG, Punjab.

...

SUVIR SEHGAL, J. (ORAL)

The Court has been convened through video conferencing due to Covid-19 pandemic.

Petitioner has filed petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.19 dated 23.01.2021 registered for offence under Sections 21 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “the NDPS Act”) at Police Station Chhehrata, District Amritsar.

As per the version of the prosecution, FIR (Annexure P-1) was registered on the basis of secret information and a motorcycle being driven by Balwinder Singh, was intercepted from whom recovery of 255 grams of Herione was effected. Harchand Singh (present petitioner) was sitting on the pillion.

Counsel for the petitioner has made a reference to the photographs (Annexure P-5) to contend that the petitioner has been falsely framed. He submits that no recovery has been effected from the petitioner and even the motorcycle on which he was travelling with the co-accused, is owned by a relative of the co-accused. It is his submission that the investigation qua the petitioner, who has unblemished antecedents, is complete, challan has now been presented on 13.07.2021 and the petitioner who is in custody since 23.01.2021 deserves to be enlarged on bail as the contra band recovered from co-accused is marginally above the threshold of non-commercial quantity.

Per contra, learned State counsel upon instructions from ASI Gurpartap Singh has opposed the petition on the ground that the recovery falls within the ambit of commercial quantity under the provisions of NDPS Act and the bar under Section 37 *ibid* is attracted. He, however, is not in a position to dispute the fact that no recovery has been effected from the petitioner, who is not involved in any other criminal case.

I have considered the respective submissions of the counsel for the parties.

Keeping in view the fact that that no recovery has been effected from the petitioner and the contraband recovered is marginally above the maximum limit prescribed for non-commercial quantity, this Court is of the view that the petitioner is entitled to the grant of concession of bail. No purpose would be served by keeping the petitioner behind bars any further.

Without commenting on the merits of the case, the petition is allowed and the petitioner-Harchand Singh is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

It is clarified that any observation made hereinabove shall not be construed to be a reflection of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

22.07.2021
Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No