

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

(Sr. No. 205)

CRM-M No. 23469 of 2021

Date of decision : 05.08.2021

Surender

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL

Present : Mr. Sunil Saharan, Advocate for the petitioner.

Mr. Aman Bahri, Addl. A. G., Haryana.

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DEEPAK SIBAL, J. (Oral)

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail in FIR No. 89 dated 07.04.2020 under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Agroha, district Hisar.

The case of the prosecution is that on 06.04.2020 the police received secret information that Narender Bagri along with 3/4 other persons was indulging in selling of heroin and in this regard would be travelling in an ambulance bearing registration No.HR-39D-7230; relying on the secret information the police located the ambulance and apprehended Narender Bagri, the petitioner, Ravinder, Salim, Ran Singh and Surender son of Nahar Singh; after following the procedure prescribed by law, search was made which resulted in the recovery of 250 grams of heroin from the petitioner with a similar quantity from co-accused Narender Bagri.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case; the petitioner is in custody since 07.04.2020; there is no other criminal case in which the petitioner is involved; report under Section 173 Cr.P.C. has already been filed and therefore the petitioner is not in a position to influence the investigation; the petitioner's trial has not yet begun and therefore the same would take a long time to conclude; even if the case of the prosecution is taken at its face value, though vehemently denied, the alleged recovery from the petitioner is 250 grams of heroin in a polythene bag, which after subtracting the weight of the bag, would be considered to be “non-commercial quantity”.

Learned State counsel opposes the grant of bail to the petitioner on the ground that the petitioner is a member of a gang involved in transporting and selling of heroin; commercial quantity of heroin has been recovered from the petitioner and in case the petitioner is granted bail, he is likely to indulge in similar offences.

Whether the alleged recovery of 250 grams of heroin in a polythene bag from the petitioner would come under “commercial quantity” would be debated during the course of the petitioner's trial. However, the petitioner is in custody since 07.04.2020; there is no other criminal case in which the petitioner is involved; report under Section 173 Cr.P.C. has already been filed and therefore the petitioner is not in a position to influence the investigation and that the petitioner's trial which is yet to begin and in which there are 15 prosecution witnesses to be examined, is likely to take a long time to conclude.

In view of the above, the present case is considered to be a fit

one in which the petitioner be directed to be released on regular bail. Resultantly, subject to the satisfaction of the CJM/Duty Magistrate, Hisar the petitioner is directed to be released on bail.

It is clarified that the above observations have been made only for the limited purpose of deciding the present regular bail application and the same would not be construed to be an expression of opinion on the merits of the case.

05.08.2021

sunil yadav

**(DEEPAK SIBAL)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No