

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

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**CRM-M-21055-2020 (O&M)
Date of decision : 08.01.2021.**

Tariq Ahmed Mattoo

.....Petitioner

Vs.

Union of India

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. D.S.Pheruman, Advocate for the petitioner.

Mr. Sanjay Vashisth, Senior Panel Counsel
for respondent-NCB.

ALKA SARIN, J. (ORAL)

Heard through video conferencing.

This is a petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in Complaint/Crime No.NCB Crime No.30/2019 dated 25.06.2019 for offences under Section 8, 20, 25 and 60, Notification No.61 of Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Narcotics Control Bureau Chandigarh Camp at Gurdaspur.

The case as set up by the prosecution is that on 25.06.2019 a specific information was received from a reliable source by Sh. Balwant Rai, Intelligence Officer, NCB Camp Gurdaspur at about 8:00 hours that one Kashmiri person driving a silver coloured car Maruti Swift bearing Registration No.DL-1CV-2185 was coming from Srinagar to Punjab to deliver huge quantity of 'Charas' on 25.06.2019. The said information was reduced into writing and was put up before Sachin Gularya, Superintendent, NCB Zonal Officer Chandigarh, Camp at Gurdaspur who in turn constituted a team comprising of J.P Singh, Intelligence Officer,

nominated as Seizing Officer, Balwant Rai, Intelligence Officer and Pawan Kumar Gujjar, JIO, Sh. Dharmendra Kumar Sepoy, Sh. Sachin Kumar, Sepoy and Sh. Nemi Chand Driver and Sh. Rahul Tyagi Driver for taking necessary action as per law. On 25.06.2019, under the Supervision of Sh. Sachin Gularya, Superintendent the afore-mentioned team alongwith NCB Jammu team moved at 11:50 hrs from Gurdaspur and reached near Toll Plaza Ladhpalwa at about 1300 hrs. Two police personnel, namely, Sh. Balbir Singh ASI 411/PKT and Sh. Joginder HC 267/PKT were associated as independent witnesses after due intimation to SHO Taragrah, District Pathankot. On 25.06.2019 at about 13:00 hrs a Naka was laid on the road coming from Pathankot to Gurdaspur near the toll plaza Ladhpalwan. The team positioned themselves towards Gurdaspur and started keeping watch on the cars coming from Pathankot side. At about 13:45 hrs as per the specific information a silver coloured Maruti Swift Dzire car bearing registration No.DL-1CV-2185 was seen coming from Pathankot side. The car was intercepted by the team of NCB and the team introduced themselves by showing their identity cards. The team also disclosed their intention to search the vehicle. The vehicle was being driven by the petitioner-herein, which also matched the available information with the NCB. On searching the Special Cavity created for hiding the contraband, a total of 22.700 Kgs of '*charas*' was recovered.

Learned counsel for the petitioner has contended that no independent witness was associated though the NCB had prior information as per the case set up by them. Learned counsel would further

contend that the petitioner has been in custody since 25.06.2019 and the trial is being delayed due to the current situation created by the COVID-19 Pandemic.

Mr. Sanjay Vashisth, Central Panel Counsel, appearing on behalf of respondent-NCB has filed a detailed reply specifically stating therein that two police personnel, not part of the NCB, were associated with the search since no independent witness or passerby is normally willing to be associated in such like matters. The two personnel associated were from Taragarh, Pathankot and they were associated after due information to the SHO, Taragarh, District Pathankot.

I have heard the learned counsel for the parties.

In the present case on the basis of secret information the present petitioner was apprehended at the spot with 22.700 kgs of '*Charas*'. Argument raised by the learned counsel for the petitioner that no independent witness was associated with the case cannot be gone into at this stage inasmuch as specific stand has been taken by NCB that independent witnesses were associated with. The question whether the said police personnel could be treated as independent witnesses or not would only be gone into at the stage of trial. The recovery in the present case is 22 kgs and 700 grams of '*Charas*', which is way beyond the commercial quantity of 01 Kg. Further, the fact that the petitioner has been in custody since 25.06.2019 alone cannot be a ground for grant of regular bail.

Keeping in mind the recovery in the present case, which is heavy commercial quantity, I do not find this to be a fit case for grant of regular bail to the petitioner.

Dismissed. Any pending applications also stand disposed off.

It is, however, made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

January 08, 2021

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NOTE:

(ALKA SARIN)
JUDGE
Whether speaking/non-speaking: Yes/No
Whether reportable: Yes/No