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

(Through video-conferencing)

CRM-M No.26597 of 2021(O&M)

Date of Decision: 12.08.2021

Balwinder Singh @ Happy

.....Petitioner

Vs

State of Punjab

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Vivek Singla, Advocate
for the petitioner.

Mr. Harpreet S. Multani, Asstt., A.G., Punjab.

RAJ MOHAN SINGH, J.(Oral)

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.0005 dated 08.01.2021 registered under Sections 18 and 25 of the NDPS Act at Police Station Dakha, District Ludhiana Rural.

FIR was registered on the basis of secret information. The petitioner along with co-accused Abid Hussain and Sukhwinder Singh were arrested at the naka. 100 grams of opium was allegedly recovered from the petitioner. 3 kgs 800 grams of opium was recovered from co-accused Abid Hussain and 100 grams of opium was recovered from co-accused

Sukhwinder Singh.

Learned counsel for the petitioner submits that in view of ratio laid down in **Amar Singh Ramjibhai Barot Vs. State of Gujarat, (2005) AIR (SC) 4248**, recovery has to be treated as individual recovery because the same was effected in personal search of the petitioner. Even otherwise, the alleged recovery is non-commercial in nature. Petitioner is in custody since 08.01.2021. He is not involved in any other case under NDPS Act. Recovery memo prepared by the police, does not carry signature of the petitioner. In view of ratio laid down in **Sandeep Kumar Vs. State of Punjab, 2019(4) RCR (Criminal) 741**, recovery of the contraband would remain debatable.

Learned State counsel, however, opposed the bail on the ground that the petitioner was apprehended along with co-accused and total recovered contraband is commercial in nature.

In view of legal proposition cited by learned counsel for the petitioner, the complicity of the petitioner would remain debatable as to whether he is accused of commercial quantity or otherwise. Challan has already been presented. The trial of the case may take some time in its culmination.

Looking to the aforesaid facts and in view of the

situation arising out due to COVID-19 pandemic, I deem it appropriate to enlarge the petitioner on regular bail without adverting to the merits of the case.

In view of above, petition is allowed. Petitioner is ordered to be released on regular bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove woul`d be construed to be an expression of opinion on merits of the case.

(RAJ MOHAN SINGH)
JUDGE

12.08.2021

Prince

Whether speaking/reasoned Yes/No

Whether reportable Yes/No