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

CRM-M No. 28809 of 2021
Date of Decision: 09.12.2021

Dharminderpal @ Tinku

-Petitioner

Versus

State of Punjab

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Rishav Jain, Advocate, for
Mr. Jaspreet Singh, Advocate,
for the petitioner.

Ms. Ruchika Sabharwal, A.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.159 dated 31.07.2019 under Section 21 of NDPS Act registered at Police Station Division No.7, Police Commissionerate Ludhiana, District Ludhiana.

CRM-M No.50510 of 2019 was got dismissed as withdrawn on 21.01.2020. CRM-M No.21708 of 2020 was also got dismissed as withdrawn on 11.09.2020.

As per allegations, FIR was lodged on the basis of secret information. Petitioner was allegedly apprehended at a naka with 01 kg heroin.

On 01.12.2021, following order was passed:-

“Learned counsel for the petitioner submits that the FIR was registered on the basis of secret information. A naka was installed. The alleged recovery of 1 kgs. of heroin was effected from the diggy of the car besides 50 empty polythene bags along with electronic scale and an amount of Rs.7,50,000/- as drug money from the dashboard of the car.

Learned counsel with reference to the recovery memo submits that the alleged recovery has not been authenticated by the petitioner as his signature does not appear on the recovery memo.

*Learned counsel relies upon **Sandeep Kumar vs. State of Punjab, 2019(4) R.C.R. (Criminal) 741.***

Learned State counsel seeks very short adjournment in order to verify the factum of recovery memo having not been signed by the petitioner.

Adjourned to 09.12.2021.

To be shown after the urgent list.”

In pursuance of the aforesaid order, learned State counsel admits that the recovery memo prepared by the police does not carry signature of the petitioner. However, learned State counsel submits that the recovery memo has been witnessed by two independent witnesses and even the petitioner has signed the consent memo. Petitioner is having antecedent behaviour of criminal activity as he is involved in 09 other cases.

Learned counsel for the petitioner with reference to **Sandeep Kumar vs. State of Punjab, 2019(4) R.C.R. (Criminal) 741** submits that the recovery memo has not been authenticated by the petitioner. It is not the case of the prosecution that the petitioner was ever called upon to sign the recovery memo and he did not sign even thereafter.

So far as involvement in other cases is concerned, the petitioner is on bail and in view of **Criminal Appeal No.153 of 2020** titled **Prabhakar Tewari vs State of UP and another**, decided on 24.01.2020, involvement of the petitioner in other cases is not a ground to discard his claim of regular bail particularly when he is in custody for more than 02 years and 07 months.

Admittedly, out of 15 prosecution witnesses, only one prosecution witness has been examined so far.

Owing to the situation arising out of pandemic COVID-19, period of incarceration, stage of the trial and without meaning anything on the merits of the case, the petition is allowed. Petitioner is directed to be released on regular bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of trial Court/concerned Duty Magistrate.

09.12.2021

Jyoti Sharma

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No