

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

**CRM-M-28893-2020
Date of decision: 04.10.2021**

Rinku Ahuja

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Fariad Singh Virk, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 0047 dated 08.03.2019, registered under Section 20 of the NDPS Act, 1985 at Police Station City Rajpura, District Patiala, Punjab.

Learned counsel for the petitioner submits that as per allegations in the FIR, one ASI namely Manjit Singh stopped a car bearing registration No. PB-10-EE-0145 on suspicion. In the meantime, a person sitting on the adjoining seat of the driver tried to fled away from the spot by opening the window of the car and a blue colour bag fell down on the road from his hands and small balls of black colour spread on the road. The complainant along with his four officials arrested the driver and the person who was sitting on the co-driver seat. On verification, the driver told his name as Lakhwinder Singh and the other person told his name as Rinku Ahuja i.e. Petitioner. It is further stated in the FIR that on checking small balls it was found to be *charas* and on weighing it was found to be 05 Kgs

and 500 grams and the same were kept in a polythene bag and the parcel was sealed with the seal impression MS and was handed over to ASI Bachan Singh.

Learned counsel for the petitioner further submits that the petitioner is first offender and is not involved in any other case and is in judicial custody for the last about 02 years and 06 months.

Learned counsel for the petitioner further submits that a bare perusal of the FIR would show that after the petitioner or the driver apprehended by the Investigating Officer, no information was sent to the Police Station by way of a ruqa in compliance of the provisions of Section 42 of the NDPS Act and the same Investigating Officer continued with the investigation and recovered the same from the petitioner. It is further submitted that out of 12 prosecution witnesses, only 03 witnesses have been examined so far and it will take a long time in conclusion of the trial.

Learned State counsel submits that the recovery is of 05 Kgs and 500 grams of *charas* which falls under the commercial quantity, however, as per the custody certificate dated 01.10.2021, it is not disputed that the petitioner is in judicial custody for the last more than 02 years and 06 months. It is further submitted that since it was a case of chance of recovery, there was no requirement of giving a notice under Section 50 of the NDPS Act.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the fact that the same complainant stopped the car; conducted the search; effected the recovery and on completion of the investigation sent a report to the Police Station which required a point to be decided by the trial Court

whether Section 42 of the NDPS Act was properly complied with or not and also in view that the petitioner is in long judicial custody and is not involved in any other case the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaq Magistrate, concerned.

04.10.2021
Chetan Thakur

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No