

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

**CRM-M-37853-2021
Date of decision: 16.09.2021**

Vakil**...Petitioner**

Versus

State of Haryana**...Respondent****CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

Present:- Mr. Pankaj Bali, Advocate
for the petitioner.

Mr. Chetan Sharma, AAG, Haryana.

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. 223 dated 21.06.2021, registered under Sections 18 and 25 of the NDPS Act, 1985 at Police Station Nissing Karnal.

Learned counsel for the petitioner submits that as per allegations in the FIR, registered at the instance of ASI Satish, it is stated that when he, along with other police officials, was on patrol duty, a secret information was received that co-accused Mehar Singh and one more person from Uttar Pradesh are involved in selling opium and are coming on a motorcycle. Thereafter, on the basis of the secret information, a notice was sent to the police station for registration of the case. After some time, two persons, coming on a motorcycle, were apprehended. The driver of the motorcycle disclosed his name as 'Vakil' i.e the present petitioner and the person, riding pillion, disclosed his name as 'Mehar Singh'. The Investigating Officer gave them a notice under Section 50 of the NDPS Act

giving option to be searched either before a Magistrate or a Gazetted Officer and thereafter, a Gazetted Officer was called at the spot.

Learned counsel further submits that in the personal search of the petitioner, no narcotic substance was recovered, whereas in the personal search of co-accused Mehar Singh, 810 grams of opium was recovered from a transparent polythene bag.

Learned counsel further submits that neither the petitioner was specifically mentioned in the secret information as he was referred to as a person from Uttar Pradesh nor any recovery was effected from his personal search and he has been implicated only on the basis of his own disclosure statement that he and co-accused Mehar Singh are selling narcotics together.

Learned counsel for the petitioner further submits that petitioner is not involved in any other case and he is in judicial custody since 21.06.2021. Learned counsel further submits that even recovery, effected from co-accused Mehar Singh, falls under non-commercial quantity.

Learned State counsel has not disputed the factual position that petitioner is not involved in any other case, however, it is submitted that he was arrested along with co-accused Mehar Singh, from whom, the recovery was effected and as per own disclosure of the petitioner, he and co-accused Mehar Singh were selling narcotics together.

After hearing learned counsel for the parties, considering the fact that petitioner is not involved in any other case; no recovery was effected from him; he was not specifically named in the secret information and even the recovered effected from the co-accused falls under the non-commercial quantity, the instant petition is allowed. The petitioner is

ordered to be released on regular bail on his furnishing bail bonds and two sureties, out of which, one surety will be a local surety, to the satisfaction of the trial Court/Duty Magistrate/Illaq Magistrate, concerned.

16.09.2021
Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>