

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M No.33836 of 2020
Date of decision:09.09.2021

Jagmail Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. L.S. Sekhon, Advocate
for the petitioner.

Mr. Randhir Singh Thind, DAG, Punjab.

SUVIR SEHGAL J. (ORAL)

Heard through video conferencing.

This is the first petition filed by the petitioner under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.187 dated 30.09.2019 registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985, (for short - “the NDPS Act”) at Police Station Kotwali Bathinda, District Bathinda, Annexure P-1.

FIR, Annexure P-1, has been registered on the allegation that during patrolling two young men were seen with a polythene bag lying on the seat of a motorcycle. They tried to run away on seeing the police, but were apprehended and the polythene bag recovered, which was found to be containing 14 vials of 100 ml. each of mark *Wincirex* and 14 strips of tablets with 10 tablets each of mark *Carisoma*. The apprehended youth identified themselves as Baljinder Singh and Jagmail Singh (present petitioner).

Counsel for the petitioner has urged that no recovery has been effected from the conscious possession of the petitioner and there has been violation of mandatory provision of Section 50 of the NDPS Act. He has placed reliance upon order dated 22.07.2020, Annexure P-3, passed by this Court in CRM-M-198-2020, whereby co-accused Baljinder Singh has been released on regular bail. Counsel asserts that the petitioner, who has clean antecedents, is no longer required for custodial interrogation as the challan has been presented and the trial is not progressing, therefore, he deserves to be released on bail.

Per contra, learned State counsel upon instructions from ASI Gurdeep Singh, has opposed the petition and submitted that the recovery falls within the ambit of commercial quantity under the provisions of the NDPS Act and rigor of Section 37, *ibid*, is attracted. He has filed custody certificate dated 08.09.2021, which is taken on record. Upon further instructions, he submits that challan has been presented on 13.01.2020, charge has been framed on 14.02.2020 and 03 out of 11 prosecution witnesses have been examined.

I have considered the rival submissions of the parties.

Hon'ble Supreme Court in **Union of India versus K.A. Najeer** 2021 (2) RCR (Criminal) 145 has held that once timely conclusion of the trial is not possible, the accused deserves to be enlarged on bail. The petitioner has been in custody for last more than 01 year and 11 months, he is not involved in any other criminal case and since the trial is likely to take time to be over, this Court is *prima facie* of the view that the petitioner deserves to be released on bail, during the pendency of the trial.

Without commenting upon the merits or de-merits of the arguments addressed by the counsel for the parties, the petition is allowed. The petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

It is clarified that any observation made hereinabove shall not be construed as an expression of opinion on the merits of the case.

09.09.2021

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(SUVIR SEHGAL)

JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No