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

**CRM-M No.35970 of 2020
Date of Decision: 27.01.2021**

AMIT

.....Petitioner

Vs

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Lalit Kumar, Advocate
for the petitioner.

Mr. Rajat Gautam, D.A.G., Haryana.

RAJ MOHAN SINGH, J.(Oral)

The case has been taken up for hearing through video conferencing.

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.553 dated 18.08.2020, registered under Section 21 of the NDPS Act (Section 29 of the NDPS Act added later on) at Police Station Shivaji Colony, Rohtak.

As per prosecution, a secret information was received on 17.08.2020 to the effect that Kishan Gupta, Sanjeev Kumar, Sanjay and Nihali @ Nihal Kaur were carrying smack in a car. Report under Section 42 of the NDPS Act was sent to the

Police. Thereafter, police party reached at the spot, where the Creta car bearing regn. no.UP-26-X-8454 was seen which was occupied by three persons and a lady. Another car bearing regn. no.PB-13-J-1906 was also found there. The occupants of the Creta car were apprehended and they disclosed their names as Kishan Gupta, Sanjeev Kumar, Sanjay and Nihali @ Nihar Kaur. Notice(s) under Section 50 of the NDPS Act was issued to them. From accused Sanjeev an amount of Rs.50,000/- and 100 grams of smack were recovered. From Kishan an amount of Rs.50,000/- and 100 grams of smack were recovered. From accused Sanjay and Nihar Kaur 600 grams of smack each was recovered. The contraband and currency notes were taken into police possession. Confessional statements of the accused persons were recorded.

During course of investigation, it was found that the aforesaid smack was to be supplied to the present petitioner. On the basis of aforesaid disclosure statements, the petitioner was arrested on 21.08.2020 and his confessional statement was also recorded.

Learned counsel for the petitioner submitted that nothing was recovered from the petitioner. The offence under Section 29 of the NDPS Act would remain debatable as nothing was recovered from the petitioner. Abetment and criminal

conspiracy would depend upon the material evidence to be led by the prosecution.

Learned State counsel on instructions from SI Jaibir submitted that the petitioner was involved in conspiracy and the smack in question was to be supplied to him in view of the disclosure statements made by the co-accused. One more case under Section 420 IPC is pending against the petitioner.

Learned State counsel further submitted that petitioner is in judicial custody. The challan is ready to be presented in the trial Court. FSL report has been received. No prosecution witness has been examined so far.

Taking into consideration the totality of facts and circumstances of the case, particularly in the light of the involvement of the petitioner on the basis of disclosure statements of the co-accused and in the light of no recovery from the petitioner even after his disclosure statement, I deem it appropriate to enlarge the petitioner on regular bail.

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

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

January 27, 2021
Atik

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No