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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-37254-2020 (O&M)

Date of decision:15.01.2021

SOHAN GIR

... Petitioner(s)

versus

STATE OF PUNJAB

... Respondent (s)

Coram: *Hon'ble Mr. Justice Jasgurpreet Singh Puri*

Present: Mr. Imran Farooqi, Advocate
for the petitioner.

Mr. Mehardeep Singh Dulat, Addl. AG, Punjab.

Through Video Conference

Jasgurpreet Singh Puri, J.(Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure, for grant of regular bail to the petitioner in FIR No.28 dated 03.03.2020, under Sections 18/61/85 of Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Shambu, District Patiala.

As per the FIR, an information was received by the police that a private bus was coming from Ambala side and the same was stopped on the side of the road after giving a warning for checking and one young man carrying a cloth of light brown colour came from the back door of the bus and started walking backward and then Sub-Inspector Gurmeet Singh apprehended him with the help of his colleagues and he was having some intoxicants and some illegal substance on the above mentioned petitioner and thereafter a competent officer was sent on the spot for further proceedings. And thereafter after complying with provisions of Section 50 of NDPS Act, the petitioner was apprehended and there was a recovery of 5 Kg opium.

Learned counsel has further submitted that the petitioner has been falsely implicated in the present case and he is not involved in any other case under NDPS Act and since the charges have already been framed, he may be considered for grant of regular bail.

On the other hand, learned State counsel has submitted that it is the case where the petitioner was caught from the spot with 5 Kg Opium which is of commercial quantity and therefore, he is not entitled to bail in view of bar contained under Section 37 of the NDPS Act.

I have heard learned counsel for the parties.

It is a case where the petitioner has been apprehended with 5 Kg opium which is of commercial quantity. The petitioner has not been able to show as to how departure can be made from bar contained under Section 37 of the NDPS Act. The mere fact that charges have been framed in the present case would not entitle the petitioner for bail especially when all the prosecution witnesses are still pending. Therefore, in view of the law laid down by the Hon'ble Supreme Court of India in ***State of Kerala Versus Rajesh 2020 (1) RCR (Criminal) 818*** no ground is made out in the present case and the same is hereby dismissed.

15th January, 2021

shabha

[JASGURPREET SINGH PURI]
JUDGE

<i>Whether speaking/reasoned</i>	<i>:-</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>:-</i>	<i>Yes/No</i>