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

(Through video conferencing)

**CRM-M No.52976 of 2019 (O&M)
Date of Decision: 28.09.2021**

MAGH SINGH @ MANGU

.....Petitioner

Vs

STATE OF PUNJAB

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Sandeep Kumar Passi, Advocate
for the petitioner.

Mr. Chaman Lal Pawar, Sr. D.A.G., Punjab.

RAJ MOHAN SINGH, J.(Oral)

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.148 dated 19.07.2019 registered under Section 22 of the NDPS Act (Section 29 of the NDPS Act added later on) at Police Station Sadar Ferozepur, District Ferozepur, Punjab.

The FIR was registered on the basis of secret information in respect of complicity of the petitioner in

transacting business of intoxicant tablets. FIR was registered on 19.07.2019 and the petitioner is in custody since then.

Vide order dated 28.10.2020, the Co-ordinate Bench of this Court was pleased to observe that the petitioner is in custody since 19.07.2019 and out of 17 witnesses, 02 have been examined. Charges have been framed on 04.02.2020. Recovery effected from the petitioner is of commercial quantity. In the prayer made by the petitioner for grant of interim bail, the Court observed that the same can be considered after the petitioner undergoes 01 year and 05 months in custody approximately.

Learned counsel for the petitioner submits that the police has not complied with the mandatory requirement of Sections 42 and 50 of the NDPS Act.

Learned counsel further submits that the non-consent memo and recovery memo prepared by the Police do not contain the signatures of the petitioner. He places reliance upon **Sandeep Kumar vs. State of Punjab, 2019(4) R.C.R. (Criminal) 741** to contend that the non-availability of signature of the petitioner on non-consent memo and recovery memo would make the case of non-compliance of the provisions under the NDPS Act. As per custody certificate, the petitioner is not involved in any other case.

Learned counsel further submits that since the petitioner is not involved in any other case, therefore, allegation of transacting business in narcotics does not arise at all. The recovery of contraband would be debatable in view of non-appearance of signatures of the petitioner on material documents. As of now, petitioner has already undergone actual custody for a period of 2 years, 2 months and 5 days since the date of arrest.

Learned State counsel however opposed the bail on the ground that the recovery effected from the petitioner is of commercial category and out of 17 prosecution witnesses, 2 witnesses have been examined so far.

This was the situation on 28.10.2020 also when the Co-ordinate Bench of this Court had observed that prayer for interim bail of the petitioner can be considered after period of 1 year 5 months of his custody.

At this stage, without meaning anything on the merits of the case and in view of the fact that the petitioner is not involved in any other case, 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.

September 28, 2021	(RAJ MOHAN SINGH)
<i>Atik</i>	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No