

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

209

CRM-M-17434-2022(O&M)

Date of decision: 01.06.2022

HARWINDER SINGH @ BINDER

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present : Mr. Hitesh Verma, Advocate
for the petitioner.

Mr. Karanbir Singh, AAG Punjab.

VINOD S. BHARDWAJ. J. (ORAL)

The instant petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.97 dated 07.03.2022 under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'NDPS Act') registered at Police Station City Barnala, District Barnala.

As per the case of the prosecution the FIR was registered on the statement of ASI Satwinder Singh that a secret information was received to the effect that the petitioner is engaged in selling *sulfa* (charas) and that he is present at Dana Mandi trying to sell *sulfa* (charas). Upon compliance with the provisions of Section 42 of the NDPS Act, the petitioner was apprehended at the spot and recovery of 133 grams of *sulfa* (charas) was effected from the petitioner.

Learned counsel for the petitioner contends that the recovered quantity is non-commercial. He further submits that there are serious discrepancies in the prosecution version and that there was no occasion or reason for the petitioner to be seen roaming around an area like Dana Mandi trying to

sell a contraband like *sulfa* at an open place. He further submits that the petitioner is in custody since 07.03.2022 and that the investigation in the case is already complete and no recovery is to be effected from the petitioner.

Learned State counsel has apprised that the investigation in the case is complete and charges have been framed, however, no evidence has been recorded so far and there are as many as 12 witnesses to be examined. He submits that there is yet another case registered against the petitioner under the NDPS Act.

Adverting to the aforesaid assertion of the learned State counsel, learned counsel for the petitioner contends that the said case has been registered at the disclosure statement of the co-accused, who was found in possession of 01 grams and 05 milligrams of intoxicant powder and that the petitioner was nominated as an accused on the disclosure statement of the said co-accused. No recovery had been effected from the petitioner and as a matter of fact, the concession of pre-arrest bail has already been granted to the petitioner in the said case.

I have heard learned counsel for the parties and have perused the material on record.

Without commenting on the merits of the case and taking into consideration the status of the investigation; period of custody undergone by the petitioner and also the quantity of contraband recovered from the petitioner, I deem it appropriate to enlarge the petitioner on bail.

Accordingly, the present petition is allowed and the petitioner is admitted to regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of Trial Court/Duty Magistrate, concerned.

It is made clear that the petitioner shall not extend any threat and shall

not influence any prosecution witnesses in any manner directly or indirectly.

The observation made hereinabove shall not be construed as an expression on the merits of the case and the Trial Court shall decide the case on the basis of available material.

(VINOD S. BHARDWAJ)
JUDGE

June 01, 2022

S.Sharma(syr)

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No