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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-19948-2021 (O&M)  
Date of Decision: 24.02.2022

Hira Singh

.. Petitioner

Vs.

State of Punjab

..Respondent

**CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ**

Present: Mr. Sahil Puri, Advocate for the petitioner.

Mr. Ramandeep Sandhu, Sr. DAG, Punjab.

...

**Manoj Bajaj, J. (Oral)**

Petitioner has prayed for grant of regular bail under Section 439 Cr.P.C, pending trial in case FIR No.13 dated 17.01.2020 registered under Sections 22/61/85 NDPS Act at Police Station City Phagwara, District Kapurthala. The petitioner is in custody since his arrest on 17.01.2020.

As per prosecution, on 17.01.2020, recovery of alleged contraband (17 injections of Buprenorphine Hydrochloride) was effected from the accused/petitioner, who was arrested on the spot.

Learned counsel for the petitioner has contended that earlier the petitioner was extended the concession of interim bail by the trial Court vide order dated 09.03.2020 and the said concession was never misused by him. He has argued that the recovered contraband would be marginally above the non-commercial quantity defined under NDPS Act and the petitioner is in custody since his arrest on 17.01.2020, but the trial has not commenced, as no prosecution witness has been examined so far out of total

eleven witnesses. He prays for bail.

On the other hand, learned State counsel assisted by ASI Gurmukh Singh, has opposed the prayer on the ground that the recovered contraband would fall within the ambit of commercial quantity. He has filed custody certificate by way of affidavit of Hemant Sharma, Addl. Superintendent of Central Jail, Kapurthala, which indicates that the petitioner is not involved in any other case. He, on instructions, states that the charges have been framed on 04.02.2021, but no prosecution witness has been examined so far.

After hearing the learned counsel for the parties, this Court finds that the charges have been framed on 04.02.2021, however, the trial is yet to commence. The petitioner is presently confined in judicial custody after his arrest on 17.01.2020, therefore, the further detention may not be necessary for any useful purpose, as the trial is likely to consume considerable time to conclude. Apart from it, the material witnesses are police officials and at present there does not seem to be any possibility of their being won over.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

The petition is allowed.

24.02.2022  
Jasmine Kaur

(MANOJ BAJAJ)  
JUDGE

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|---------------------------|-----|----|
| Whether speaking/reasoned | Yes | No |
| Whether reportable        | Yes | No |