

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-23069-2022 (O&M)  
Date of decision: 17.11.2022

**Arun**

**... Petitioner**

**Vs.**

**U.T. Chandigarh**

**... Respondent**

**CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

Present: Mr. Sourabh Shah, Advocate  
for the petitioner.

Mr. Abhinav Gupta, Addl. PP, U.T. Chandigarh.

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**ARVIND SINGH SANGWAN, J. (ORAL)**

Prayer in this 2<sup>nd</sup> petition is for grant of regular bail in FIR No.204 dated 05.12.2021 under Section 20 of NDPS Act, registered at Police Station Mani Majra, Chandigarh; earlier one was dismissed as withdrawn on 18.02.2022.

Learned counsel for the petitioner submits that as on today, custody of the petitioner is 11 months and 13 days and out of total 12 prosecution witnesses, only 02 PWs have been examined. It is further submitted that as per allegations in the FIR, registered at the instance of SI Naveen Kumar, on 05.12.2021, he was present at a barrier, where a clean shaven person was seen

coming with a bag in his hand. When he reached near the Sports Complex, on seeing the police party, he turned back and started walking briskly, however, on suspicion, he was apprehended and told his name as Arun (petitioner). On opening the bag, it was containing 07 kg of ganja. It is argued that even if it was a case of chance recovery, Section 50 of NDPS Act was not complied with, as the petitioner was not given an option to be searched before a Magistrate or Gazetted Officer. Thereafter, the same Investigating Officer completed the investigation and no second Investigating Officer was called.

Learned counsel has further submitted that the petitioner is not involved in any other case under NDPS Act and he was involved in one case under Excise Act in the year 2013, in which he has already undergone the sentence in 2015. It is also submitted that recovery is of non-commercial quantity.

Learned Addl. PP, U.T. Chandigarh, on instructions from ASI Harinder Singh, has not disputed the factual position.

As per the custody certificate filed in the Court today, the petitioner is in custody for the last 11 months and 13 days.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering the fact that recovery is of non-commercial quantity; the petitioner is in custody for the last 11 months and 13 days; he is not involved in any other case under NDPS Act; out of total 12 prosecution witnesses, only 02 PWs have been examined so far, therefore, it will take some time in conclusion of the trial, this petition is allowed and the

petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

**[ ARVIND SINGH SANGWAN ]**  
**JUDGE**

17.11.2022  
*vishnu*

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No