

128+211

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

**(Through video conferencing)**

**CRM No.39390 of 2021 in/and  
CRM-M No.39953 of 2021 (O&M)  
Date of Decision: 18.01.2022**

**HARINDER SINGH @ HAPPY**

**.....Petitioner**

**Vs**

**STATE OF PUNJAB**

**.....Respondent**

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

Present: Mr. N.K. Verma, Advocate  
for the petitioner.

Mr. Hittan Nehra, Addl. A.G., Punjab.

\*\*\*\*\*

**RAJ MOHAN SINGH, J.(Oral)**

**CRM-39390-2021**

It appears from the record that the present application remained undecided. The application was filed by the previous Advocate for early hearing of the case. While deciding CRM No.40332 of 2021, the reference of the earlier application could not be made as there was no recital to that fact in the application.

Be that as it may, the present application is disposed of having become infructuous in view of order dated 02.12.2021

passed in CRM No.40332 of 2021.

**Main case**

Petitioner seeks grant of regular bail in his second attempt under Section 439 Cr.P.C in case bearing FIR No.37 dated 16.02.2019 registered under Sections 22/61/85 of the NDPS Act at Police Station Mandi Gobindgarh, District Fatehgarh Sahib, Punjab. Earlier petition bearing CRM-M No.36841 of 2019 was got dismissed as withdrawn on 26.02.2021.

Learned counsel for the petitioner submits that after withdrawal of the aforesaid petition co-accused Pawan Kumar @ Lucky has been granted regular bail by this Court vide order dated 15.09.2021 passed in CRM-M No.33961 of 2019.

Since the earlier petition was not decided on merits, therefore, vide order dated 01.10.2021 passed by the Co-ordinate Bench, the case has been sent to his Court.

As per allegations in the FIR, the petitioner along with co-accused Pawan Kumar @ Lucky was arrested. 48 injections of Buprenorphine and 48 injections of Avil were recovered from the co-accused Pawan Kumar @ Lucky. 42 injections of Buprenorphine and 42 injections of Avil were recovered from the petitioner. Avil does not fall under the ambit of NDPS Act. The quantity allegedly recovered from the petitioner is 84 ml of contraband which is commercial in nature and on that premise

the bail was declined to the petitioner. Petitioner is in custody since 16.02.2019 and thereby has undergone incarceration of 2 years 10 months and 29 days as on date. The co-accused Pawan Kumar @ Lucky has been granted regular bail by this Court on the basis of clean antecedent except the present case.

Learned counsel refers to **CRM-M No.20566 of 2019** titled **'Veeru vs State of Punjab'** decided on 19.11.2019; **CRM-M No.41779 of 2020** titled **'Gurpreet Singh vs State of Punjab'** decided on 17.12.2020; **CRM-M No.17481 of 2020** titled **'Mani Singh @ Maddi vs State of Punjab'** decided on 22.07.2020; **CRM-M No.25382 of 2020** titled **'Gurbaksh Singh vs State of Punjab'** decided on 02.09.2020 and submits that by virtue of long incarceration of the petitioner, petitioner is entitled for regular bail *de hors* the nature of quantity. This is so particularly in view of his non-involvement in any other case.

As per custody certificate, petitioner is also not involved in any other case except the present case. Challn has already been submitted. Out of total 14 prosecution witnesses, 05 prosecution witnesses have been examined.

For the reasons recorded in the order dated 15.09.2021 passed in CRM-M No.33961 of 2019, the interpretation attached to Rule 66 of Narcotic Drugs and Psychotropic Substances Rules of 1985, a person can have 100 doses of such like

psychotropic substance would also remain debatable.

Learned State counsel however opposed the bail, however the factual position of the case could not be denied.

On parity and in view of the situation arising out of COVID-19 pandemic, the petitioner is also directed to be enlarged on regular bail.

In view of above, petition is allowed. Petitioner is ordered to be released on regular 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 opinion on merits of the case.

|                           |                   |
|---------------------------|-------------------|
| January 18, 2022          | (RAJ MOHAN SINGH) |
| Atik                      | JUDGE             |
| Whether speaking/reasoned | Yes/No            |
| Whether reportable        | Yes/No            |