

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

**CRM-1161/2022 in/and
CRM-M-41053 of 2021(O&M)**

DECIDED ON: 21st April, 2022

Chander Mohan alias Noji

.....PETITIONER

VERSUS

Union of India

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Akshay Rana, Advocate for petitioner.

Mr. Rajeev Sharma, Advocate for NCB.

AVNEESH JHINGAN, J (ORAL)

This petition is filed seeking regular bail in case of Crime No. 46 dated 1.7.2021, under Sections 8, 20, 27-A, 29 and 60 of Narcotic Drugs and Psychotropic Substances Act, 1985, (for short 'the Act') registered at Police Station Narcotics Control Bureau, Chandigarh Zonal Unit, Union Territory, Chandigarh.

Shorn of unnecessary details the facts are that on 1.7.2021, a secret information was received that Kuldeep Singh, Sanjeev Kumar and Ashok Kumar were illegally transporting contraband in car bearing registration No.CH-10-AE-1125. Officials of Narcotics Control Bureau (NCB) checked the vehicle and recovered 3.650 kilograms charas concealed under the speaker of the car. Recovery was made in presence of an independent witness. All the three accused were apprehended. Kuldeep Singh and Sanjeev Kumar in their disclosure statements named Chander Mohan alias Noji (petitioner) stating that part of the recovered contraband was to be supplied to the petitioner. The petitioner was arrested on 2.7.2021.

Learned counsel for the petitioner submits that the petitioner was not apprehended from the spot, he was named in disclosure statement which has no evidentiary value. Submission is that the petitioner is not involved in any other case under the Act, investigation is complete and challan stands presented.

Mr. Rajiv Sharma, Advocate appears for NCB and vehemently opposes the prayer for bail. He submits that there are call details of 30.6.2021 and 1.7.2021 showing that petitioner, co-accused and the alleged supplier namely Jaswant Singh @ Dave Rame were in contact with each other. He further submits that recovery from the co-accused is of commercial quantity. He relies upon statements recorded under Section 67 of the Act where co-accused named the petitioner and attributed a specific role that he was to be supplied portion of the recovered contraband. Learned counsel relies upon Section 37 of the Act to oppose the bail.

The petitioner was not apprehended from the spot. After the arrest of the petitioner, no recovery was made. It would not be appropriate for this Court at this stage of deciding the regular bail petition to comment upon the evidentiary value of statement recorded under Section 67 of the Act and with regard to reliance on call details by counsel for NCB, same would be subject matter of trial. *Suffice-to-say* that the prosecution agency has the call details but no recording of conversation. The petitioner has no criminal antecedents, though investigation is complete conclusion of trial is likely to take time. There was no recovery from the conscious possession of petitioner and he was not occupant of the car, the reliance on Section 37 of the Act by learned counsel for NCB is of no avail.

Bail is granted to the petitioner on furnishing surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

The petition is allowed.

It is clarified that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

21st April, 2022
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(AVNEESH JHINGAN)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>Yes</i>