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

**CRM-M No.37264 of 2020(O&M)
Date of Decision: 23.05.2022**

Ram Kumar Thapa Chhatri

.....Petitioner

Vs

UT Chandigarh

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. A.P. Kaushal, Advocate
for the petitioner.

Mr. Rajiv Anand, A.P.P., UT, Chandigarh.

RAJ MOHAN SINGH, J.(Oral)

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in his second attempt in case bearing FIR No.14 dated 27.01.2020 registered under Section 20 of the NDPS Act at Police Station Sector-36, Chandigarh.

Police patrolling party saw one boy coming from parking of Lake Sector-42, Chandigarh side carrying one bag on his back. On seeing the police party, he got perplexed and started moving backwards. He was apprehended on the basis of suspicion. He tried to throw away the bag, but the police party apprehended him with black bag. On being asked, he told his

name Ram Kumar Thapa Chattri, resident of Nepal. When the police opened the bag, 6 pieces in round shape wrapped in brown tape were found carrying charas. On weighment, charas was found to be 3 kgs. Thereafter, writing was sent to the Police Station for registration of FIR. This information was sent to the Police Station at 6:30 PM.

Learned counsel for the petitioner submits that as per arrest memo dated 27.01.2020, FIR number is appearing. Petitioner was arrested at 7:30 PM. As per FIR, information was sent to the Police Station at 6:30 PM. The information was received in the Police Station at 6:52 PM and FIR was registered at 8:40 PM.

Vide order dated 15.01.2021, learned State counsel was required to explain as to how number of FIR came to be recorded in the arrest memo at 7:30 PM, particularly when no FIR was in existence at that time.

According to the learned State counsel which was supported by affidavit of Rajeev Kumar Ambasta, DSP (Crime), Sector-11 Chandigarh, the process of registration was started from 6:52 PM on receipt of information and the process ultimately culminated at 8:40 PM. In the meanwhile, G.D Entry No.44 was recorded at 6:52 PM and information was given to second Investigating Officer at the spot. According to him, in this

manner, FIR No.14 dated 27.01.2020 came to be incorporated in the handling memo prepared by SI Sumer Singh.

Learned counsel for the petitioner further submits that the presence of Mama namely Kumar Puri of the petitioner in the arrest memo has not been explained by the prosecution by way of any justification. The presence of Mama at the time of arrest of the petitioner would remain debatable. Petitioner has already undergone 2 years, 3 months and 25 days of custody as on date and is not involved in any other NDPS 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 and **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, he is entitled for regular bail *de hors* the nature of quantity of contraband allegedly recovered.

Learned State counsel with reference to the custody certificate endorses the aforesaid fact. Learned State counsel however apprehends that the petitioner is resident of Nepal and he may flee from justice.

In view of facts and circumstances of the case, the period of incarceration and other attending circumstances of the case, I deem it appropriate to enlarge the petitioner on regular bail without meaning anything on merits of the case.

In view of above, this petition is allowed. Petitioner is ordered to be released on regular bail subject to his furnishing heavy bail bonds with local surety in the like amount to the satisfaction of the concerned trial Court/Duty Magistrate.

Nothing expressed hereinabove, would be construed to be an expression of opinion on merits of the case.

23.05.2022

Prince

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No