

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-31285-2023
Date of decision:- 10.10.2023

Sanjar Alam
... Petitioner

Versus

State of Punjab
.. Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr.Palvinder Singh, Advocate
for the petitioner.

Mr.A.P.S. Tung, DAG, Punjab.

SUVIR SEHGAL, J. (ORAL)

1. Instant petition has been filed under Section 439 Cr.P.C. seeking
grant of post-arrest bail in:-

FIR No.	Dated	Police Station	Sections
12	31.01.2023	City, Nawanshahar, Shaheed Bhagat Singh Nagar	18 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “the NDPS Act”)

2. Case of the prosecution is that FIR, Annexure P1, has been
registered when on suspicion, a Hindu gentleman, who was on foot, was
stopped and his search was carried out. He was found to be in possession of

2.620 kg opium, which was being carried in a bag.

3. Counsel for the petitioner contends that petitioner has been falsely implicated and no recovery was effected from him. He submits that the petitioner is languishing in detention since the date of his arrest. It is his argument that the essential prerequisites of search and seizure were not complied with before making the alleged recovery. In the alternative, he submits that as the recovery allegedly effected from the petitioner is marginally above the commercial quantity, he deserves to be enlarged on bail as he has clean antecedents.

4. Opposing the petition and by placing on record a copy of custody certificate dated 09.10.2023, State counsel upon instructions from ASI Balwinder Kaur urges that as the contraband recovered falls within the ambit of commercial quantity, rigor of Section 37 of NDPS Act would apply and petitioner is not entitled to the concession of bail. Upon specific instruction, he states that charge has been framed on 05.07.2023 and one out of 12 prosecution witnesses has been examined.

5. I have heard and considered the submissions made by counsel for the parties.

6. Discussing the judgments passed by various Co-ordinate Benches, this Court in CRM-M-18775-2021 titled as **“Jatin Arora @ Jatin Versus State of Punjab”** has held that where the contraband recovered is marginally above the threshold limit of commercial quantity and the accused enjoys unblemished antecedents, he deserves to be released on bail.

7. As per the custody certificate filed by the State counsel, petitioner is not involved in any other criminal case. Trial against the petitioner is at an

initial stage. Recovery effected is barely above the prescribed commercial quantity. Following the judgment in *Jatin Arora @ Jatin’s* case, this Court is of the view that there is no reason to decline the concession of bail to the petitioner.

8. Without advertng to the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate, concerned. The petitioner shall furnish a solvent local surety to the satisfaction of the Trial Court/Duty Magistrate, concerned.

9. It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

10.10.2023
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Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No