

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-43559-2023
Date of decision:-15.12.2023

Balraj Singh @ Baaj

... Petitioner

Versus

State of Punjab

.. Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr.Ruhani Chadha, Advocate and
Mr.Prikshit Thakur, Advocate
for the petitioner.

Mr.Ravinder Singh, AAG, 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
46	22.05.2023	Sadar, Rupnagar	22 of NDPS Act (later on offence under Section 29 NDPS was added)

2. Case of the prosecution is that FIR has been registered when during routine checking, a car was intercepted and recovery of 255 gram of Tramadol was effected from a transparent polythene bag found in its dashboard. The driver of the car identified himself as Balraj Singh @ Baaj,

present petitioner, and the other occupant of the car disclosed his name as Sandeep Choudhary @ Sunny. Both the accused were taken into custody on 24.05.2023.

3. Counsel for the petitioner contends that the contraband allegedly recovered is marginally above the commercial quantity. He has placed reliance upon a judgment of this Court in CRM-M-18775-2021 titled as **“Jatin Arora @ Jatin Versus State of Punjab”** decided on 07.07.2021. He urges that weight of the polythene bag has also been included in the weight of the contraband. He asserts that as the petitioner, who is in custody since 24.05.2023 and has clean antecedents deserves to be enlarged on bail.

4. *Per contra*, State counsel upon instructions from HC Parshotam Lal has opposed the petition and submits that as the recovery falls within the scope of commercial quantity, bar under Section 37 of NDPS Act will apply. He has filed custody certificate dated 14.12.2023 and submits that out of eleven prosecution witnesses, four have been examined.

5. I have heard counsel for the parties and considered their respective submissions.

6. This Court in **Jatin Arora @ Jatin Versus State of Punjab** (supra), 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. Petitioner who has a clean past, has been in detention for the last more than 6 months. Also, the trial is not likely to conclude in the near future. Keeping in view these facts and circumstances, this Court is

prima-facie of the view that the petitioner is entitled to be released on bail.

8. Without adverting 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 adequate bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate, concerned.

9. Any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

15.12.2023
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Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No