

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(211)

CRM-M-45118-2023
Date of decision:- 15.09.2023

Sunesh @ Makkar ... Petitioner
Versus
State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Laghuinder Singh Sekhon, Advocate for
Mr. Jagmohan Ghumman, Advocate
for the petitioner.

Mr. Ramender Singh Chauhan, AAG, Haryana
for State-respondent.

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
209	03.06.2023	Farrukh Nagar, District Gurugram	21 (b) of the NDPS Act

2. Version of the prosecution is that on the basis of secret information, Sunesh @ Makkar, present petitioner, who was riding a motorcycle, was apprehended and recovery of 51 grams of Heroin was effected from the pocket of his trousers.

3. Counsel for the petitioner submits that the recovery effected from the petitioner falls in non-commercial category and the petitioner, who has

clean antecedents, deserves to be enlarged on bail as investigation qua him has been completed and challan has been presented.

4. *Per contra*, State counsel, upon instructions from Inspector, Jitender Singh, has opposed the petition. He has filed Custody Certificate dated 14.09.2023, which is taken on record. On the basis of Custody Certificate, he could not dispute the antecedents of the petitioner. As per his instructions, charge has been framed on 25.08.2023, though prosecution evidence is yet to start.

5. Having heard counsel for the parties, but without adverting to the merits or demerits of the arguments addressed, this Court is *prima facie* of the view that the petitioner deserves to be enlarged on bail. Contraband recovered from the petitioner falls within the ambit of intermediate quantity as per the notification issued under the NDPS Act and the bar under Section 37 of the Act will not apply. Moreover, the trial is at an embryonic stage.

6. Petition is allowed. Petitioner is ordered to be released on bail on his furnishing adequate bail/surety bonds to the satisfaction of the Area Magistrate/Duty Magistrate concerned.

7. Nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

15.09.2023

Kamal

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