

# Law Today Live Doc. Id. 15171

PUNJAB AND HARYANA HIGH COURT

Before: Sudip Ahluwalia, J.

CRM-M-37868-2019

Decided on: 29.07.2020

Sukhdev Kumar @ Seetu

Petitioner

Versus

State of Punjab

Respondent

Present:

Mr. Manmeet Singh Rana, Advocate, for the petitioner.

Mr. S.S. Deol, DAG, Punjab.

**Code of Criminal Procedure, 1973 (2 of 1974), Section 439 -- Narcotic Drugs and Psychotropic Substances, Act, 1985 (61 of 1985), Section 15, 22 – NDPS matter – Regular bail -- 55 strips of *Spasmo Proxyvon Plus* capsules (total 1320 in number) and 14 plastic vials of *Corex Syrup* were recovered -- Petitioner was not arrested on the spot, there is no question of effecting any recovery of contraband from his conscious possession – Petitioner was arrested on 16.07.2019 -- Disclosure statement of the co-accused is not sufficient enough to establish the petitioner's culpability satisfactorily -- Petitioner is involved in nine other criminal cases, however, there is no mention of the petitioner being involved in any other case under the NDPS Act -- Long detention undergone by the petitioner, as also the fact that the trial is not likely to be commenced or completed in a reasonable time on account of the ongoing COVID-19 Pandemic -- Ordered to be released on regular bail.**

(Para 2-7)

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**SUDIP AHLUWALIA, J. (ORAL) –**

The instant petition has been filed under Section 439 of the Code of Criminal Procedure seeking regular bail in case FIR No.65 dated 16.11.2016, under Sections 15 and 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Rawalpindi, District Kapurthala.

2. The petitioner was arrested on 16.07.2019. Allegation against him is that he managed to abscond from the car, in which he was sitting as a passenger, and thereafter, commercial quantity of contraband in the form of 55 strips of *Spasmo Proxyvon Plus* capsules (total 1320 in number) and 14 plastic vials of *Corex Syrup* were recovered.

3. The petitioner's name was disclosed by Nirbhair Singh, who was driving the car in question at the relevant time, and who has since been granted bail by the Ld. Court below.

4. In the circumstances, it is clear that when the petitioner was admittedly not arrested on the spot, there is no question of effecting any recovery of contraband from his conscious possession, and it is well settled that disclosure statement of the co-accused is not sufficient enough to establish the

petitioner's culpability satisfactorily.

5. Another interesting aspect of the matter is that the Police Authorities do not appear to have made any attempt/effort to identify owner of the vehicle, from which the contraband was allegedly recovered. It has further transpired that evidence from the prosecution side has still to commence, although 13 persons have been cited as witnesses in the challan.

6. Ld. State Counsel has submitted that apart from the present case, the petitioner is involved in nine other criminal cases. However, there is no mention of the petitioner being involved in any other case under the Narcotic Drugs and Psychotropic Substances Act, 1985.

7. In such circumstances, considering the long detention undergone by the petitioner in the present case, as also the fact that the trial is not likely to be commenced or completed in a reasonable time on account of the ongoing COVID-19 Pandemic. At this stage, he is ordered to be released on regular bail, subject to the appropriate terms and conditions to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

8. Disposed off.

**Petition allowed.**

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