

# Law Today Live Doc. Id. 15226

**PUNJAB AND HARYANA HIGH COURT**

**Before: Ritu Bahri, J.**

CRM-M-53641-2019 (O&M)

Decided on: 13.08.2020

Nirmal Singh @ Bittu

Petitioner

Versus

State of Punjab

Respondent

*(Heard through VC)*

Present:

Mr. Deepak Gupta, Advocate for the petitioner.

Mr. Hittan Nehra, Addl.A.G., Punjab.

**Code of Criminal Procedure, 1973 (2 of 1974), Section 439 -- Narcotic Drugs and Psychotropic Substances, Act, 1985 (61 of 1985), Section 22, 25 – NDPS matter – Commercial quantity – Regular bail -- Recovery of 5 grams heroin and 270 grams of intoxicant powder -- Commercial quantity is 250 grams -- Hence, the quantity recovered is marginally higher than the commercial quantity – Keeping in view recovery of marginally higher than the commercial quantity of intoxicant powder and that the trial will take some time for its conclusion, there is no need to detain the petitioner any longer -- Petition allowed and the petitioner is ordered to be enlarged on bail.**

**(Para 5, 6)**

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**RITU BAHRI, J. (ORAL) –**

1. This petition under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No. 68 dated 16.07.2019 registered under Sections 21, 22 and 25 of NDPS Act, 1985 at Police Station Sadar Moga, District Moga.

2. Learned counsel for the petitioner submits that the petitioner has been in custody since 18.07.2019.

3. Reply by way of affidavit of Senior Superintendent of Police, Moga, District Moga on behalf of respondent No. 1 was filed on 13.02.2020 alongwith details of registered cases against the petitioner (Annexure R-1). As per this list (Annexure R-1), out of 12 cases including the present FIR No. 68 dated 16.07.2019, the petitioner has been acquitted in the FIRs mentioned at Sr. No. 1, 3, 4,5,7,9,10. As per the reply by way of affidavit of Station House Officer dated 05.03.2020, the petitioner is also acquitted in FIR No. 105 dated 30.06.2006 under Sections 354, 506, 342, 323 and 34 IPC registered at Police Station Sadar, Moga.

4. Learned counsel for the State has emailed custody certificate dated 12.08.2020 and the list of registered cases against the petitioner. As per this custody certificate, the petitioner has been in custody for 1 year and 25 days.

5. In the present case, recovery of 5 grams heroin and 270 grams of

intoxicant powder has been effected from the petitioner whereas the commercial quantity is 250 grams. Hence, the quantity recovered is marginally higher than the commercial quantity

6. Keeping in view recovery of marginally higher than the commercial quantity of intoxicant powder and that the trial will take some time for its conclusion, this Court feels that there is no need to detain the petitioner any longer. Accordingly, this petition is allowed and the petitioner is ordered to be enlarged on bail to the satisfaction of the concerned Chief Judicial Magistrate/Duty Magistrate.

7. However a direction is being given to the State that if the petitioner is found indulging in any other NDPS Act irrespective of commercial or non-commercial quantity, application for cancellation of bail be moved immediately.

8. Pending applications stand disposed of.

**Petition allowed.**

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