

# Law Today Live Doc. Id. 15215

**PUNJAB AND HARYANA HIGH COURT**

**Before: Augustine George Masih, J.**

CRM-M-16188-2020

Decided on: 10.08.2020

Ashwani Kumar @ Jalebi

Petitioner

Versus

State of Punjab

Respondent

(PROCEEDINGS THROUGH V.C.)

Present:

Mr. Akhilesh Vyas, Advocate, for the petitioner.

Mr. B.S. Sewak, Addl. A.G. Punjab, for the State.

**Narcotic Drugs and Psychotropic Substances, Act, 1985 (61 of 1985), Section 21 -- Code of Criminal Procedure, 1973 (2 of 1974), Section 439 -- 255 gram of heroin recovered -- Commercial quantity -- Regular bail -- Petitioner is in custody for more than 13 months -- Till date, no witness has been examined, the trial is not likely to conclude in near future and the recovery, which has been effected from the petitioner, is marginally above commercial quantity and no case pending against the petitioner -- Petition allowed, petitioner be released on regular bail.**

**(Para 2-5)**

**Cases referred:**

1. Sarabjit Singh @ Saba vs. State of Punjab, CRM-M-8313 of 2018 decided on dated 11.05.2018.

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**AUGUSTINE GEORGE MASI, J. (ORAL) –**

1. Counsel for the State, on the basis of the custody certificate submitted by the Superintendent, Central Jail, Amritsar dated 09.08.2020, submits that in all other FIRs, which were registered against the petitioner, he stands acquitted and this is the only case where he is in custody for now.

2. Counsel for the petitioner contends that the petitioner was arrested on 25.06.2019 and is in custody since then. The recovery, which has been effected from the petitioner, is 255 gms. of heroin which is marginally higher than the commercial quantity which is 250 gms. Counsel contends that out of the total 9 cited witnesses, none has been examined. Reliance has also been placed upon the **order dated 11.05.2018** passed by this Court in **CRM-M-8313 of 2018 titled as Sarabjit Singh @ Saba vs. State of Punjab**, whereby a similarly placed person has been granted the concession of bail. He, therefore, prays that the petitioner be granted the concession of bail.

3. Counsel for the State, on instructions from SI Gurinder Singh, Police Station Special Task Force, District STF Wing, SAS Nagar, does not dispute the said assertions of the counsel for the petitioner.

4. Having considered the submissions made by the counsel for the parties and keeping in view the facts and circumstances of the present case as the petitioner is in custody since 25.06.2019 and more than 13 months have passed but till date, no witness has been examined, the trial is not likely to

conclude in near future and the recovery, which has been effected from the petitioner, is marginally above the quantity fixed for bringing it within the ambit of commercial quantity and keeping in view the fact that as of now, there is no case pending against the petitioner, the present petition is allowed.

5. Petitioner is directed to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Trial Court/Chief Judicial Magistrate/Duty Magistrate, Amritsar.

6. Any observation made herein above shall have no bearing on the merits of the case during trial in any manner.

**Petition allowed.**

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