

CRM No. M-21185 of 2015
DECIDED ON: JULY 16, 2015

MAHESH KUMAR @ MESHI

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH.

- 1. Whether Reporters of local papers may be allowed to see the judgment?*
- 2. To be referred to the Reporters or not?*
- 3. Whether the judgment should be reported in the Digest?*

Present: Mr. Vivek Sharma Vashisht, Advocate
for the petitioner.

Mr. Deepak Garg, AAG, Punjab.

JASPAL SINGH, J (ORAL)

Instant petition has been preferred by Mahesh Kumar @ Meshi under Section 439 Cr.P.C. seeking regular bail during the pendency of trial in case FIR No. 253 dated 28.11.2003 under Section 21 and 22 of NDPS Act, Police Station Salem Tabri, Ludhiana.

2. It has been contended by learned counsel for the petitioner that petitioner was granted the concession of interim bail for a limited period on account of non receipt of Chemical Examiner's Report vide order dated January 28, 2014. Further he was directed to surrender within 10 days from the date of receipt of Chemical Examiner's Report. In compliance of said order, petitioner surrendered in the Court but an application for bail preferred by him was dismissed vide order dated January 29, 2015. During the period he remained on bail, he complied with the terms and conditions imposed upon him and did nothing anything contrary. Moreover, he is in custody from the date of his arrest i.e. November 28, 2013. Disposal of trial would take sufficient long time. As

such, he deserves the concession of bail. He also undertakes to abide by all the terms and conditions imposed by this Court in case he is granted the concession of bail. .

3. Per contra, learned State counsel has strongly opposed the submissions made by learned counsel for the petitioner and has submitted that simply because he has been granted the interim bail till the receipt of Chemical Examiner's Report does not create any right in his favour. In fact, recovery of contraband effected from his possession falls within the definition of 'commercial quantity' and as such, he does not deserve the concession of bail.

4. This Court has given an anxious thought to the contentions raised by learned counsel for the parties and have perused the record available on file.

5. Undoubtedly, petitioner was granted interim bail vide order dated January 28, 2014 till the receipt of Chemical Examiner's Report with a direction to surrender before trial Court within 10 days from the receipt of said report and in compliance thereof, he surrendered before the Court. The contraband recovered from the petitioner falls within the ambit of definition of commercial quantity and as such, Section 37 of the Act is attracted. Thus, in such circumstances, mere fact that petitioner is in custody since November 29, 2013 is itself no ground to grant him bail. As far as the status of trial is concerned, most of the witnesses cited in the list have already been examined and trial is likely to complete within a short span of time. This Court is thus, of the considered view that no case is made out for grant of bail.

6. Accordingly, instant petition is dismissed.

JULY 16, 2015
SHAM

(JASPAL SINGH)
JUDGE