

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM-M No. 17243 of 2018

Date of decision : 20.12.2018

Rakesh

.....Petitioner

Versus

State of Haryana

...Respondent

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present : Mr. L. S. Sekhon, Advocate for the petitioner.

Mr. R. S. Doon, AAG, Haryana.

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DAYA CHAUDHARY, J. (Oral)

Short affidavit of Umed Singh, H.P.S., D.S.P., City Fatehabad (Haryana) along with custody certificate has been filed by learned State counsel in the Court today, which is taken on record.

Petitioner Rakesh has approached this Court by way of filing the present petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to him in case FIR No.755 dated 18.12.2016 under Section 21-C of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short the 'NDPS Act') registered at Police Station – Sadar, Fatehabad, Distt. Fatehabad, during pendency of the trial.

Learned counsel for the petitioner submits that earlier the petitioner was released on interim bail as FSL report was not received. Thereafter, the report was received and the petitioner himself surrendered

before the trial Court and now he is in custody since 31.03.2018. Learned counsel also submits that during this period, the petitioner never misused the concession of interim bail. There is no other case of NDPS Act against him. Co-accused of the petitioner has already been released on regular bail. All the prosecution witnesses are official witnesses and there is no possibility that the petitioner may influence them or tamper with the evidence. He undertakes to appear before the trial Court regularly and to abide by all the terms and conditions to be imposed by this Court or by the trial Court.

Learned State counsel has not disputed the custody period undergone by the petitioner, but he opposes the bail on the ground that the petitioner cannot claim parity with co-accused as the commercial quantity is there and the petitioner is not entitled for regular bail at this stage.

Heard learned counsel for the parties and have also gone through the FIR and other documents available on the file.

By considering the submissions made by learned counsel for the petitioner and keeping in view the custody period undergone by the petitioner, which is more than 01 year and 03 months and also the fact that when the petitioner was released on interim bail he never misused said concession; he is not involved in any other case of NDPS Act; co-accused of the petitioner has already been released on regular bail; all the prosecution witnesses are official witnesses and there is no possibility that the petitioner may influence them or tamper with the evidence, no purpose would be served by keeping the petitioner in custody. Accordingly, the

present petition is allowed and the petitioner is directed to be released on regular bail on furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

20.12.2018

sunil yadav

**(DAYA CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No