

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Misc. No. M-20575 of 2018

DATE OF DECISION:05.09.2018

Shamsher

.....Petitioner

Versus

State of Haryana

.....Respondent

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. Ashwani Gaur, Advocate
for the petitioner.

Mr. Manish Dadwal, AAG, Haryana.

DAYA CHAUDHARY, J.

The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to petitioner in case FIR No. 138 dated 8.7.2016 registered under Section 20 of NDPS Act at Police Station Pillukhera, District Jind.

Learned counsel for the petitioner contends that the petitioner has falsely been implicated in this case, whereas, he was not involved. Mandatory provisions of Sections 42 and 57 of the NDPS Act have not been followed while conducting the search. The CFSL form was also not filled up at the spot. The recovery has been shown to be effected at a public place, whereas, no independent witness was joined. Learned counsel further contends that as on today there is no other case against the petitioner as in the earlier case of NDPS Act, he has been acquitted. He is in custody for the last more than two years and all the witnesses are official witnesses and there is no possibility that he may influence the witnesses or tamper with the evidence.

Learned counsel for respondent-State has not disputed the custody period but has opposed the submissions made by learned counsel for the petitioner on the ground of huge recovery of 1200 gms of charas.

Without commenting anything on the merits of the case and keeping in view the facts that the petitioner is in custody for the last more than two years; there is no other case of NDPS Act against him; all the witnesses are official witnesses and there is no possibility that he may influence the witnesses or tamper with the evidence and trial may take long time to conclude, petition is allowed. Petitioner-Shamsher is directed to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of trial Court.

September 05, 2018
pooja

(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No