

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

CRM-M No. 30009 of 2018 (O&M)

Date of decision : 29.11.2018

Shiv Kumar

.....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.

* * *

DAYA CHAUDHARY, J. (Oral)

CRM No.39689 of 2018

This application is for placing on record Annexure P-3 (colly).

Application is allowed and Annexure P-3 (colly) annexed with
the application is taken on record.

CRM-M No.30009 of 2018

Petitioner Shiv Kumar 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.62 dated 27.02.2016 under Sections 21-C, 27-A of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short the - 'NDPS Act') and Sections 18-A/18-C of the Drugs and Cosmetics Act, 1940, registered at Police Station – City Tohana, Distt. Fatehabad, during pendency of the trial.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the case, whereas he was not involved. He was not produced before any Magistrate or Gazetted Officer and there is non-compliance of mandatory provisions of Section 50 and 42 of the NDPS Act. He is in custody since 27.02.2016. Out of total 15 prosecution witnesses, 6 witnesses have been examined, 2 witnesses have been given up and one witness has died. Still the trial may take some time to conclude and no purpose would be served by keeping him in custody. All prosecution witnesses are official and there is no possibility that petitioner may influence them or tamper with the evidence. Learned counsel also submits that there is no other case of NDPS Act against the petitioner.

Learned State counsel has not disputed the custody period and the stage of the trial. However, he has opposed the submissions made by learned counsel for the petitioner on the ground of quantity of recovery, which is commercial.

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

Without commenting anything on the merits of the case and keeping in view the period of custody undergone by the petitioner, which is more than 2 years and 9 months, there is no other case of NDPS Act against him and also the facts that all prosecution witnesses are official witnesses and there is no possibility that the petitioner may influence them or tamper with the evidence, 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.

29.11.2018

sunil yadav

**(DAYA CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No