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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-36368-2018

Date of decision:28.08.2018.

HARMINDER SHARMA @ HEMENDRA SHARMA@ASHU

... Petitioner

Versus

STATE OF PUNJAB

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Vivek K.Thakur, Advocate,for the petitioner.
Mr. Surinder Pal Singh Tinna, Addl.A.G. Punjab.

HARI PAL VERMA, J.(Oral)

Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.22 dated 03.04.2016 under Sections 21/61/85 of NDPS Act, registered at Police Station Satnampura, Phagwara District Kapurthala.

Learned counsel for the petitioner has argued that the alleged recovery is of 50 grams of heroin. The petitioner was admitted to bail by the trial Court. Thereafter, the challan was presented on 01.06.2018 and under some wrong advice, the petitioner could not appear. He absented on 10.05.2017 and was declared as proclaimed offender on 21.05.2018. However, the petitioner has surrendered before the trial Court on 01.06.2018 and since then he is in custody. He has further argued that on account of wrong advice, he could not appear before the trial Court as he was under the impression that his presence is required only on the date when the challan is to be presented but in the meantime, the PO proceedings were initiated and

vide order dated 21.05.2018 he was declared as proclaimed offender. There is no other case registered against him.

Learned State counsel has filed custody certificate in court today, which is taken on record. As per the custody certificate, there is no case registered against him. He on instructions from ASI Jaswinder Singh, has argued that the petitioner absented from Court for a very long period for which PO proceedings were initiated and the FIR was registered against him, therefore, the petitioner does not deserve the concession of regular bail.

I have heard learned counsel for the parties.

The alleged recovery is of 50 grams heroin, which falls under non-commercial quantity and for having been absent from the Court and on account of PO proceedings initiated against him, he is in custody since 01.06.2018. The trial in the case will take sufficient long time and no useful purpose will be served to keep the petitioner behind the bar. Otherwise before being declared as proclaimed offender, the petitioner was on bail.

Therefore, having regard to the fact that the trial in this case will take long time and he is in custody since 01.06.2018, coupled with the fact that there is no other case against him, without expressing any opinion on the merits of the case, prayer of the petitioner is accepted and the petitioner is ordered to be admitted on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court.

Petition stands allowed.

(HARI PAL VERMA)
JUDGE

28.08.2018

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Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No