

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

CRM-M No. 46592 of 2017

DATE OF DECISION :- March 12, 2018

Radhe Shyam

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mr. Vikas Bishnoi, Advocate for the petitioner.

Mr. Gaurav Bansal, AAG, Haryana

This petition for regular bail has been filed by petitioner Radhe Shyam, an accused in F.I.R. No. 129 dated 21.7.2017 for an offence under Sections 18, 29 and 61 of NDPS Act registered with Police Station Loharu, District Bhiwani.

Briefly stated the facts of the case as per prosecution story are that on 21.7.2017, a police party from the Police Station Loharu headed by ASI Satbir Singh was present near Dhigawa Mandi Pahari Road, when the ASI received a secret information that one Radhe Shyam along with Mange Ram and Rajesh had been indulging in drug trafficking and Radhe Shyam was to come from the side of village Isharwal in his Bolero vehicle to supply the contraband. During the course of checking, a Bolero was stopped coming from the side of village Isharwal having registration No. HR42D-0241. It was intercepted. The vehicle was being driven by Radhe Shyam.

The two other occupants of the vehicle disclosed their names as Mange Ram and Rajesh. On personal search being conducted, Mange Ram was found to be carrying white parcel wrapped in a plastic bag in the right pocket of his Kurta which was found to be containing of milk of opium total weighing 499 grams. Rajesh was found to be carrying 649 grams of opium. Samples were drawn. All the three occupants of vehicle were arrested.

The accused had approached the Court below for grant of regular bail but was unsuccessful there. His request was declined by Additional Sessions Judge, Bhiwani vide order dated 7.11.2017, as such he has approached this Court asking for similar relief. His request is being opposed by the State counsel.

I have heard learned counsel for the petitioner and learned State counsel besides going through the record.

It is not disputed that no recovery had been effected from Radhe Shyam. Two of his co-accused namely Mange Ram and Rajesh Kumar have since been granted regular bail by this Court in petition bearing CRM-M-44521 of 2017 vide order dated 25.1.2018. The recovery involved is less than commercial quantity. Therefore, Section 37 of the NDPS Act, 1985 is not attracted.

The custody certificate placed on file by the State counsel reveal that though the petitioner is shown to be involved in some other criminal cases but none of them is under NDPS Act. The petitioner is in custody for more than seven months.

Without touching the merits of the case, since the trial is at an initial stage and its conclusion is likely to take some time, for that reason

further detention of the accused shall not serve any useful purpose more particularly keeping in view the quantity of contraband involved and other facts and circumstances, the petition is allowed and the petitioner is ordered to be released on bail on furnishing bail bond and surety bond to the satisfaction of the learned trial Court/CJM/Duty Magistrate, Bhiwani subject to the following conditions : -

- (i) he shall appear in the Court on each and every date of hearing.
- (ii) he shall not give any threat or intimidation to the prosecution witnesses.
- (iii) he shall not leave India without prior permission of the Court and shall surrender his Passport, if he has got one otherwise to furnish affidavit in that regard.

In addition to that the trial Court may impose any term and condition found suitable to ensure that the petitioner does not abscond and interfere in the trial.

In case the petitioner violates any term and condition on which the bail has been granted to him, the order shall be liable to be withdrawn.

(H.S. MADAAN)
JUDGE

March 12, 2018
p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No