

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

CRM-M-49650-2017

Date of decision:-15.5.2018

Rakesh Kumar

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Mr.Pardeep Sharma, Advocate
for the petitioner.

Mr.Saurav Khurana, DAG, Punjab.

H.S. MADAAN, J.

This petition for regular bail has been filed by petitioner – Rakesh Kumar – an accused in FIR No.122 dated 9.6.2017, under Section 21 of NDPS Act, registered at Police Station Sohana (Mohali) on the allegations that on 9.6.2017 the petitioner was driving Innova car having registration No.PB08-BA-0717; that his co-accused were also sitting in that car and 550 gms. of Heroin was recovered from the car.

Accused/petitioner was arrested. He had filed an application for regular bail, which was declined by Additional Sessions Judge, SAS Nagar, Mohali vide order dated 20.7.2017, as such, he has approached this Court with same request.

Notice of the petition was given to respondent – State and counsel representing the State has put in appearance.

I have heard learned counsel for the parties besides going through the record.

After hearing the rival contentions of the learned counsel for the parties, I find that merits of the case though relevant but are not to be seen alone at the time of considering case for grant of bail. Those merits can be taken into view during the trial. For grant of regular bail, the factors to be considered are quite different, which include like age and previous antecedents of the accused, the conduct of the accused, likelihood of accused appearing in the Court regularly or absconding, the chances of influencing the prosecution witnesses, the stage of the trial etc. Every case has to be viewed on its own facts and circumstances while considering the question of grant of bail and observations made in a particular case cannot be taken to be settled precedent in other cases since as already observed various other factors in light of facts and circumstances of that case are to be considered. As the things stand, it is a case of recovery of contraband which amounts to commercial quantity and bar of Section 37 of the NDPS Act is there.

Section 37 of the Act reads as under:

Offences to be cognizable and non-bailable.—(1)

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) every offence punishable under this Act shall be cognizable;

(b) no person accused of an offence punishable for 3 [offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity] shall be released on bail or on his own bond unless—

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(iii)(2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force on granting of bail.

The drug trafficking is rising at an alarming rate in this region, especially in the State of Punjab, which has ruined the lives of young men and women. Drug peddlers for a small monetary consideration make the youth to use drugs for a small time excitement/kick. The drug peddlers have successfully destroyed the social fabric of our society and led youth to the wrongful path. Such type of persons need to be dealt with firmly and sternly and no sympathy can be shown to them lest that should prove to be counter productive and result in increased drug trafficking.

Therefore, finding no merits in the petition, the same stands dismissed.

15.5.2018

Brij

(H.S.MADAAN)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No