

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

209

**CRM-M-35984-2019
Date of Decision : 16.12.2019**

Harish

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. S.K. Bishnoi, Advocate for the petitioner.

Mr. Arjun Singh Yadav, Asstt. A.G., Haryana
for the respondent-State.

ARUN KUMAR TYAGI, J. (Oral)

The petitioner has filed the present second petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.1255 dated 27.12.2018 registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') at Police Station Sirsa City, District Sirsa.

His first petition for regular bail was dismissed as withdrawn by the Coordinate Bench of this Court vide order dated 02.07.2019.

Learned State Counsel has appeared and opposed the bail application.

I have heard learned Counsel for the petitioner and learned State Counsel and gone through the record.

Learned Counsel for the petitioner has argued that the petitioner was not arrested on the spot and no recovery was made from his possession. The co-accused Prehlad and Deepak Kumar were apprehended with 510 capsules of TRAMADOL HYDROCHLORIDE PARVORIN-SPAS. The petitioner has been falsely implicated in this case on the basis of disclosure statements allegedly made by co-accused Prehlad and Deepak Kumar. Apart from their disclosure statements, there is no evidence regarding involvement of the petitioner in the case.

Mandatory provisions of the NDPS Act were not complied with. The

FSL report has not been received so far. The petitioner is in custody since 02.03.2019. Trial is likely to take time and no purpose will be served by keeping the petitioner in custody. He is not involved in any other case under the NDPS Act. Rigors of Section 37(1)(b) of the NDPS are not applicable qua the petitioner. Therefore, the petitioner may be ordered to be released on regular bail.

On the other hand, learned State Counsel has argued that the petitioner is accused of having supplied 510 capsules of TRAMADOL HYDROCHLORIDE PARVORIN-SPAS Ridley to his co-accused Prehlad and Deepak Kumar and the petitioner does not deserve the concession of regular bail. Therefore, the petition may be dismissed.

However, learned State Counsel has conceded that the petitioner is not involved in any other case under the NDPS Act.

Keeping in view the facts and circumstances of the case, particularly that the petitioner was not apprehended on the spot, no recovery was made from him, there is no evidence against him except the disclosure statements of his co-accused, rigors of Section 37(1)(b) of the NDPS Act will not apply qua the petitioner and also stand satisfied by implication and trial is likely to take time but without commenting on the merits of the case, I am of the considered view that the petitioner deserves the concession of regular bail.

Therefore, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of bail bonds to the satisfaction of the trial Court/Chief Judicial Magistrate concerned.

16.12.2019

Kothiyal

(ARUN KUMAR TYAGI)
JUDGE

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