

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

209

CRM-M-46083-2019

Date of decision: 28.11.2019

Rajesh Sharma

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Sanjeev Patiyal, Advocate for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

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.98 dated 20.03.2018 under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "the NDPS Act") registered at Police Station Sector-40, District Gurugram and setting aside of the order dated 04.09.2019 passed by the learned Additional Sessions Judge, Gurugram wherein the concession of bail granted to the petitioner has been cancelled.

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 submitted that non-commercial quantity of 150 grams of *charas* is alleged to have been recovered from the possession of the petitioner. The petitioner was granted interim bail till receipt of FSL report. However, the petitioner could not appear before the Court due to his medical illness and he

produced medical certificates regarding the same. The Court disbelieved the medical certificates and dismissed the bail application considering the default to be deliberate one. The absence of the petitioner was due to illness beyond his control. Trial is likely to take long time. Co-accused Vikas @ Vikky has already been granted bail. The petitioner is ready to furnish fresh bail bonds and to abide by the conditions thereof.

On the other hand, learned State counsel has submitted that the petitioner misused the concession of bail and absented deliberately and the petitioner does not deserve the concession of regular bail. However, learned State counsel on instructions from ASI Ajai Pal has conceded that the petitioner is not involved in any other case under the NDPS Act.

Generally speaking, the medical certificates cannot be disbelieved without holding proper enquiry and summoning the concerned doctor and in case the medical certificates are found to be false in any manner then appropriate action is also required to be taken against the concerned doctor issuing the same.

Keeping in view the facts and circumstances of the case, particularly the facts that the case involves recovery of non-commercial quantity of the contraband and Section 37(1)(b) of the NDPS is not attracted, trial is likely to take long time, co-accused has already been granted bail and that the petitioner is not involved in any other case under the NDPS Act but without commenting on merits of the case, I am of the considered view that the petitioner deserves to be released on fresh 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/Duty Magistrate, Gurugram.

28.11.2019

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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