

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

213

**CRM-M-47792-2019
Date of decision: 03.12.2019**

Shamsher Dass @ Tholu

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Sandeep Verma, Advocate for the petitioner.

Mr. Sandeep Singh Deol, D.A.G. Punjab.

ARUN KUMAR TYAGI, J (ORAL)

The petitioner has filed the present first petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.70 dated 19.08.2019 under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, “the NDPS Act”) registered at Police Station Ghagga, District Patiala.

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 600 intoxicant tablets, which even on gross weight fall in the category of non-commercial quantity, were allegedly recovered from possession of the petitioner. The rigors of Section 37(1)(b) of the NDPS Act are not applicable. The petitioner has been falsely implicated in the case. The recovery was planted on him. There was non-compliance of the mandatory provisions of the NDPS Act. The petitioner is in custody

since 19.08.2019. The petitioner is not involved in any other case under the NDPS Act. Therefore, the petitioner may be granted regular bail.

On the other hand, learned State counsel has argued that the petitioner committed serious offence of keeping the prohibited quantity of intoxicant tablets in violation of the provisions of the NDPS Act and does not deserve the grant 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 the period of custody of the petitioner, non-applicability of Section 37(1)(b) of the NDPS Act, the fact that the trial is likely to take long time and also 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 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, Patiala.

03.12.2019

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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