

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

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**CRM-M-2100-2020
Date of Decision : 04.03.2020**

Rahul

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Tarun Sharma, Advocate for
Mr. Paramjit Singh Jammu, Advocate
for the petitioner.

Mr. Arjun Singh Yadav, AAG Haryana
for the respondent-State.

ARUN KUMAR TYAGI, J. (Oral)

The petitioner has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.194 dated 30.08.2019 registered under Sections 17 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act') at Police Station Sadar Sirsa, District Sirsa.

As per the prosecution version, on 30.08.2019 ASI Sukhdev Singh along with other police officials was present at the bridge of Ghaggar River in Village Panihari for checking and nakabandi. One Alto car came from the side of Panihari and on seeing the police party, the petitioner who was driving the car tried to turn back the same. The police officials apprehended the petitioner and his co-accused Leelu Ram on suspicion and on search recovered one plastic envelop containing 1 kg opium from the car and 500 grams of opium from the pocket of the pant of co-accused Leelu Ram. The petitioner who is in custody since 30.08.2019 has sought grant of regular bail.

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 has been falsely implicated in the case. Mandatory provisions of the NDPS act were not complied with. No independent witness was joined at the time of alleged recovery. The alleged recovery is of non-commercial quantity and Section 37 of the NDPS Act is not applicable in the present case. The trial is likely to take long time. The petitioner is in custody since 30.08.2019. No useful purpose will be served by further detention of the petitioner in custody. 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 committed serious offence by keeping the contraband in his possession. The petitioner does not deserve the concession of regular bail. Therefore, the petition may be dismissed.

Keeping in view the facts and circumstances of the case, nature of accusation and evidence against the petitioner, non-applicability of Section 37(1)(b) of the NDPS Act due to recovery of non-commercial quantity of opium, the fact that the trial is likely to take long time and also parity with his co-accused Leelu Ram who has been granted bail by this Court vide order dated 07.01.2020 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 concerned.

04.03.2020

Kothiyal

(ARUN KUMAR TYAGI)
JUDGE

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