

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

223

**CRM-M-2975-2020
Date of decision: 12.02.2020**

Sumit

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Aditya Sanghi, Advocate
for the petitioner.

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

ARUN KUMAR TYAGI, J (ORAL)

The petitioner has filed the present (first) petition under Section 439 of the Code of Criminal Procedure, 1973 (for short, "the Cr.P.C.") for grant of regular bail in case FIR No.432 dated 04.10.2016 under Sections 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "the NDPS Act") and Section 120-B of the Indian Penal Code, 1860 (for short, "the IPC") registered at Police Station Mahendergarh, District Mahendergarh to which Section 22(c) of NDPS Act has been added lateron while deleting Section 21 of the NDPS Act.

As per the prosecution version, on 04.10.2016, raid was conducted by CM Flying Squad by joining Hemant Grover, Drug Inspector, Mahendergarh and police officials on the basis of secret information and large quantity of intoxicating 1542 injections and 2835 tablets were recovered. FIR No.432 dated 04.10.2016 was initially registered against the petitioner and his co-accused Somdutt under Section 21 of the NDPS Act read with Section 120-B of the IPC and

they were granted bail by the trial Court vide order dated 06.10.2016. Subsequently Section 22(c) of the NDPS Act was added and Section 21(a) of the NDPS Act was deleted. Report under Section 173(2) of the Cr.P.C. was filed against the petitioner and his co-accused Somdutt. The petitioner, who is in custody, has filed the present petition for grant of regular bail.

Learned State counsel has appeared and opposed the bail application in terms of reply filed by way of affidavit of Mr. Yad Ram, H.P.S., Deputy Superintendent of Police, Mahendergarh.

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 the petitioner has been falsely implicated in the case. In Sessions Case No.18 of 2018 titled as 'State Vs. Sumit and another' filed against the petitioner and his co-accused on the same set of allegations the petitioner has been acquitted vide judgment dated 04.02.2020. The petitioner is not involved in any other case under the NDPS Act. Trial is likely to take long time. 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, on instructions from Drug Control Officer Hemant Grover and SI Dharamveer, has submitted that the petitioner along with his co-accused Somdutt kept huge quantity of the intoxicating injections and tablets attracting the provisions of the NDPS Act falling in the category of commercial quantity. In view of the gravity of offence, the petitioner 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.

It is not disputed that in Sessions Case No.18 of 2018 titled as 'State Vs. Sumit and another' filed against the petitioner and his co-accused on the same set of allegations the petitioner has been acquitted vide judgment dated 04.02.2020 by learned Additions Sessions Judge, Narnaul in view of the discrepancies in evidence of the complainant. The Court has also observed that the present petitioner has been falsely and whimsically implicated in the case by the complainant despite the fact that he had not committed any offence. The petitioner is not involved in any other case under the NDPS Act. There are reasonable grounds to prima facie hold that the petitioner has not committed the offence under the NDPS Act and is not likely to commit any offence under the NDPS Act in future.

Keeping in view the facts and circumstances of the case, nature of accusation against the petitioner, judgment passed by the learned Additional Sessions Judge, Narnaul in Sessions Case No.18 of 2018 titled as 'State Vs. Sumit and another' whereby the petitioner was acquitted on the same set of facts, the period of custody and also the fact that the trial is likely to take long time 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/Duty Magistrate concerned.

12.02.2020

(ARUN KUMAR TYAGI)
JUDGE

Vinay

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