

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

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**CRM-M-4055-2020
Date of Decision : 04.02.2020**

Lakhwant Singh @ Bhundi

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Gurpreet Singh Bhasin, Advocate
for the petitioner.

Mr. Arun Kaundal, DAG, Punjab
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.123 dated 26.06.2019 registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act') and Section 309 of the Indian Penal Code, 1860 (for short 'the IPC') registered at Police Station Nathana, District Bathinda.

As per the prosecution version, on 28.06.2019 police party headed by SI Kirpal Singh, on suspicion, stopped two young persons riding on the white Scooty which slipped and the riders fell down, one of whom fled from the spot while the other one (Jaspal Singh) was apprehended and on search 2350 tablets of CLOVIDOL 100 SR were recovered from the plastic bag held by him in his right hand. During investigation on the same day, the petitioner was named by his co-accused Jaspal Singh in his disclosure statement. The petitioner who attempted to commit suicide was admitted in the hospital and was arrested therefrom on 30.06.2019. On completion of investigation, the petitioner along with his co-accused was charge-sheeted to face trial under Section 22 of the NDPS Act and under Section 309 of the IPC.

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 he has been falsely implicated on the basis of disclosure statement made by his co-accused. As per the FIR recovery was made from the plastic bag held by co-accused Jaspal Singh in his right hand. The petitioner is in custody since 30.06.2019. 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. Trial is likely to take long time and no purpose will be served by keeping 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 allegations against the petitioner are serious and the petitioner does not deserve the concession of regular bail. However, learned State Counsel has conceded that the petitioner is not involved in any other case.

Keeping in view the facts and circumstances of the case that the petitioner was not arrested on the spot, recovery was not made from him and he is not involved in any other case under the NDPS Act, nature of accusation and evidence against the petitioner, involvement of question as to whether the petitioner can be said to be in conscious possession of the contraband recovered from his co-accused Jaspal Singh, satisfaction by due implication of the conditions of Section 37 (1)(b) of the NDPS Act qua the petitioner and 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 concerned.

04.02.2020

Kothiwal

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No