

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

**CRM-M-11370 of 2020
Date of Decision:-14.08.2020**

Avtar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Sarvjit Singh Khurana, Advocate
for the petitioner.

Mr. Aman Bahri, Additional A.G., Haryana.

JASGURPREET SINGH PURI J.(Oral)

The present petition under Section 439 Cr.P.C. has been filed by the present petitioner for grant of regular bail pending trial in case FIR No.297 dated 04.10.2019, under Section 21 of NDPS Act, registered at Police Station Kasola, District Rewari.

Learned counsel for the petitioner has *inter alia* argued that the investigation of the case is already completed and the challan in this case was presented on 19.11.2019 and charges were framed on 05.12.2019. He has further stated that out of total 15 cited prosecution witnesses, five of them have been examined and no material witness is left for examination. He has further submitted that his case for bail may be considered due to his long incarceration, particularly in view of the fact that the alleged recovery

effected from the petitioner was about 37 grams of heroine. He has also pointed out the fact from the FSL Report that the alleged recovery was of heroine. Learned counsel has further pointed out that the co-accused, namely, Monu had already been enlarged on bail by the Judicial Magistrate 1st Class, Bawal. Therefore he prays for grant of concession of regular bail to the petitioner.

On the other hand, learned State counsel has submitted that it is correct that the challan was presented on 19.11.2019 and charges were framed on 05.12.2019 and that out of total 15 cited prosecution witnesses, five have been examined. On the basis of the FSL Report, learned State counsel has also not controverted the fact that the alleged recovery effected from the petitioner was of heroine and was of non-commercial quantity. Learned State counsel has further submitted that there are two other cases pending against the petitioner, however, they are not pertaining to the offence under the NDPS Act.

I have heard learned counsel for the parties through video conferencing.

On the basis of submissions made by learned counsel for the parties that after completion of investigation, challan was presented in the present case in the month of November, 2019 and the material witnesses in the present case have already been examined, coupled with the fact that the co-accused was also granted bail but the petitioner was not granted bail by the learned Sessions Judge. It has further come into light that the alleged recovery in the present case was of 37 grams of heroine, which is non-commercial quantity. Learned counsel for the petitioner has submitted that

earlier also bail application was filed by him but the same was dismissed as withdrawn at that stage on 15.1.2020. He has further submitted that at that point of time, learned counsel appearing for the petitioner could not bring it to the knowledge of the Court and withdrawn the bail application. Therefore, in view of the fact that the alleged quantity of heroine recovered from the petitioner was of non-commercial quantity, this case can certainly be considered again for grant of bail.

After considering the submissions made by learned counsel for the parties, I am of the view that it is a fit case where the petitioner should be enlarged on bail. Resultantly, the present petition is allowed. It is ordered that the petitioner shall be released on regular bail on his furnishing bail bond/surety to the satisfaction of the learned trial Court/Duty Magistrate.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

August 14, 2020
Vijay Asija

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No