IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

208

CRM-M-15208-2020
Date of decision: 21.08.2020

Dharmender .....Petitioner

Versus

State of Haryana .....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Ashish Gupta, Advocate
for the petitioner.

Mr. Naveen Singh Panwar, DAG Haryana
for the respondent-State.

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ARUN KUMAR TYAGI, J (ORAL)

The case has been taken up for hearing through video conferencing.

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.194 dated 27.07.2019 registered under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, “the NDPS Act”) at Police Station IMT Rohtak, District Rohtak

As per the allegations in the FIR on 27.07.2019, the police party headed by A.S.I. Pankaj received secret information that Bhim Singh, Danvir and Ashok Kumar, who were habitual of suppling intoxicant substances, were coming to Rohtak in car bearing registration No.HR-26AD-5275 with huge quantity of the intoxicant substance. Information was sent under Section 42 of the NDPS Act to the higher police authorities. The car was stopped and on search 33 kgs.

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500 grams Ganja Patti was recovered from the car. On the basis of written information sent by A.S.I. Pankaj, the above-said FIR was registered. During investigation co-accused Ashok Kumar made disclosure statement implicating the petitioner to be the person who had supplied the contraband. On completion of investigation, the police filed challan against the petitioner and his co-accused.

The petitioner, who is in custody since 16.01.2020, has filed the present petition for grant of regular bail.

Pursuant to supply of advance copy, learned State Counsel has appeared and opposed the petition. However, no reply has been filed by the respondent-State.

I have heard learned Counsel for the petitioner and learned State counsel and gone through the relevant record.

Learned Counsel for the petitioner has argued that the petitioner has been falsely implicated in the case on the basis of disclosure statement of his co-accused Ashok Kumar. The petitioner was not arrested on the spot. No recovery was made from him. There is no evidence to link the petitioner with the crime. Rigors of Section 37(1)(b) of the NDPS Act are not applicable qua the petitioner. The petitioner is not involved in any other case. The trial is likely to take long time and no useful purpose will be served by further detention of the petitioner in custody during trial. Therefore, the petitioner may be granted regular bail.

On the other hand, learned State Counsel has argued that the petitioner is accused of having committed heinous offence and in view of the gravity of accusation, the petitioner does not deserve grant

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of regular bail. Therefore, the petition may be dismissed.

In view of the facts and circumstances of the case, nature of accusation and evidence against the petitioner, non involvement of the petitioner in any other case under the NDPS Act and in-applicability/satisfaction by implication of the conditions of Section 37(1)(b) of the NDPS Act but without commenting on the merits of the case, I am of the considered view that the petitioner may be extended the concession of regular bail.

Therefore, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of personal and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

However, the petitioner is granted regular bail subject to the condition that he shall not commit any offence under the NDPS Act after his release on bail and in case of commission of any offence by him under the NDPS Act in future his bail in the present case shall also be liable to be cancelled on application to be filed in this regard.

21.08.2020 (**ARUN KUMAR TYAGI**)
Kothiyal **JUDGE**

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

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