

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-16071-2020

Date of Decision : 04.08.2020

Fariyad

...Petitioner

Versus

State of U.T. Chandigarh

....Respondent

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Hitender Kansal, Advocate for the petitioner.

Mr. Anil Kumar Lamdharia, APP for UT Chandigarh.

B.S. Walia, J. (VC)

1. Case is being taken up for hearing through Video Conferencing due to the outbreak of Covid-19 pandemic.

2. Prayer in the petition under Section 438 Cr.P.C. is for grant of regular bail to the petitioner during the pendency of the trial in case FIR No.30 dated 18.02.2020, registered under Section 20 NDPS Act, 1985 at PS, IT Park, Chandigarh.

3. Learned counsel contends that recovery of 1 kg 20 gram of charas is marginally higher than the commercial quantity of charas i.e. 1 kg, the petitioner is in custody since 18.02.2020, Challan has not been filed and that in the prevailing circumstances on account of Corona Virus pandemic, no useful purpose would be served by keeping the petitioner behind bars as trial would take considerable period of time to conclude.

Learned counsel has also referred to a decision of a Coordinate Bench of

(Criminal) 760 in which the recovery was of 52 kgs of Poppy husk including the weight of bag, was marginally on higher side than the commercial quantity and taking into account that the petitioner therein was in custody for a period of six months and challan had not been filed, the petitioner therein was released on bail.

4. Mr. Anil Kumar Lamdharia, learned counsel appearing on behalf of U.T. Chandigarh has not controverted that the commercial quantity of Charas is 1 Kg and that recovery is only 20 grams higher than the commercial quantity of charas and that the petitioner is in custody since 18.02.2020 and that challan has not been filed till date, although the same is ready.

5. Taking into account the totality of circumstances i.e. of recovery being marginally higher than the commercial quantity fixed in case of charas i.e. 20 grams, the petitioner being in custody since the past more than 5 months, challan not having been filed as well as the circumstances prevailing on account of Corona Virus pandemic, no useful purpose would be served by keeping the petitioner behind bars, the petition for regular bail is allowed. Accordingly, the petitioner is ordered to be released on regular bail provided he is not required in any other case and subject to his furnishing bail/surety bonds to the satisfaction of the learned CJM/Trial Court/Duty Magistrate, concerned.

7. However, nothing stated hereinabove would be construed as an expression of opinion on the merits of the case.

(B.S. Walia)
Judge

August 04, 2020