

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

207

**CRM-M-16305-2020
Date of Decision : 20.07.2020**

Jaswinder Singh @ Jass

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Divjyot S. Sandhu, Advocate
for the petitioner.

Mr. M.S. Nagra, Advocate
for the respondent-State.

ARUN KUMAR TYAGI, J. (Oral)

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

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.92 dated 13.04.2020 registered under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act') at Police Station Sultanpur Lodhi, District Kapurthala.

As per the allegations made in the FIR, on 13.04.2020 the police party headed by ASI Gurdep Singh apprehended, on suspicion, the petitioner, who had thrown a heavy polythene envelope on the side of road on seeing the police party and on search as per the prescribed procedure recovered heroin which along with the polythene envelope weight 260 grams.

The petitioner, who is in custody since 13.04.2020, has filed the present petition for grant of regular bail.

Petition has been opposed by learned State Counsel. However, no reply has been filed by respondent-State although learned State Counsel has filed custody certificate through e-mail print out of which is taken on record.

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 has been falsely implicated in the case. Heroin weighing 26 grams was allegedly recovered from the petitioner which was marginally higher to the non-commercial quantity. Weight of the contraband was taken along with the polythene envelope weight of which had to be excluded therefrom. In view of the possibility and margin of error alleged recovery from the petitioner cannot be said to fall in the category of commercial quantity so as to attract Section 37(1)(b) of the NDPS. In support of this argument, learned Counsel for the petitioner has placed reliance on orders passed by Coordinate Benches of this Court in ***CRM-M-44066-2019 titled 'Pritam Kaur @ Bawi Vs. State of Punjab' decided on 31.01.2020; CRM-M-2538-2018 titled 'Shanta Pun @ Bahadur Vs. State of Punjab' decided on 23.04.2018*** and ***CRM-M-30672-2019 titled 'Satnam Singh @ Sattu Vs. State of Punjab' decided on 17.09.2019.***

Learned Counsel for the petitioner has further submitted that the petitioner is not involved in any other case under the NDPS Act. Trial is likely to take long time due to restrictions imposed to prevent spread of Covid-19 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 petitioner is accused of having kept commercial quantity of the contraband in his possession. The petitioner does not deserve the concession 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.

Keeping in view the facts and circumstances of the case, nature of accusation against the petitioner, the period of his custody, the fact that the petitioner is not involved in any other case under the NDPS Act and also that the trial is likely to take long time due to restrictions imposed to prevent spread of infection of Covid-19 and orders passed by Coordinate Benches in ***CRM-M-44066-2019 titled 'Pritam Kaur @ Bawi Vs. State of Punjab' decided on 31.01.2020; CRM-M-2538-2018 titled 'Shanta Pun @ Bahadur Vs. State of Punjab' decided on 23.04.2018*** and ***CRM-M-30672-2019 titled 'Satnam Singh @ Sattu Vs.***

State of Punjab' decided on 17.09.2019 for grant of bail in similar circumstances of recovery of 260 grams heroin/258 grams intoxicant powder but without commenting on merits of the case, I am of the considered view that the concession of regular bail may be extended to the petitioner.

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.

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

20.07.2020

Kothiyal

(ARUN KUMAR TYAGI)
JUDGE

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