

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

210

**CRM-M-16306-2020
Date of Decision : 28.07.2020**

Rakesh Kumar @ Rinku

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Tarun Sharma, Advocate
for the petitioner.

Mr. Sidakmeet Sandhu, AAG, Punjab
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.27 dated 14.03.2020 registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') at Police Station Ferozepur Cantt., District Ferozepur.

The facts relevant for disposal of bail application are that on 14.03.2020, pursuant to registration of FIR on secret information, the police party headed by ASI Sukhdev Singh apprehended the petitioner and on search as per the prescribed procedure recovered 200 grams of intoxicant powder (on analysis found to contain tramadol as per FSL report dated 11.06.2020) from his possession.

The petitioner, who is in custody since 14.03.2020, 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 and FSL report through e-mail print out of which are 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. Allegedly recovery of 200 gram powder from the petitioner falls in the category of non commercial quantity. 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 land, learned State Counsel has argued that in the present case the petitioner is accused of having kept non-commercial quantity of the contraband in his possession but the petitioner is also involved in other cases under the NDPS Act and is habitual offender. The petitioner does not deserve the concession of regular bail. Therefore, the petition may be dismissed.

As per the custody certificate, the petitioner was acquitted in two cases and granted bail in three other cases under the NDPS Act which are pending trial and the petitioner is not a previous convict.

Keeping in view the facts and circumstances of the case, nature of accusation against the petitioner, period of his custody, non-applicability of Section 37(1)(b) of the NDPS Act, and the fact that the trial is likely to take long time due to restrictions imposed to prevent spread of infection of Covid-19 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 requisite bail bonds to the satisfaction of the trial Court/Chief Judicial 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 under the NDPS Act 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.

28.07.2020

Kothiyal

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No