

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

206

**CRM-M-16770-2020
Date of decision: 17.11.2020**

Vinod

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Daljeet Singh Virk, Advocate
for the petitioner.

Mr. Anant Kataria, DAG, Haryana
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 (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.148 dated 19.08.2016 under Sections 15 and 16 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "the NDPS Act") registered at Police Station Nathusari Chopta, District Sirsa.

Briefly stated, the case of the prosecution against the petitioner is that on 19.08.2016, the police party headed by ASI Sukhjit Singh conducted raid on the basis of secret information regarding concealment of bags containing poppy husk by Het Ram, Pardeep and Ram Kishan in their fields and accordingly made recovery of 25 bags containing poppy husk weighing 10 Kgs. each from their fields.

Consequent to registration of the above said FIR the police investigated the case and on completion of investigation charge sheeted Ram Kishan @ Bhallu and Sugreev @ Bhani who were acquitted by learned Additional Sessions Judge, Sirsa vide judgment dated 12.09.2019. On coming to know that poppy husk had been brought in canter by co-accused Narender @ Motu and left in the fields, the police arrested Narender Kumar @ Motu who alleged in his disclosure statement that the poppy husk was brought in the canter owned and driven by co-accused Vinod (the petitioner). On completion of investigation challan has been filed against the petitioner and his co-accused Narender Kumar @ Motu.

The petitioner, who is in custody since 06.10.2019, has filed the present petition for grant of regular bail.

The petition has been opposed by learned State Counsel in terms of reply filed by way of affidavit of Jagat Singh, HPS, Deputy Superintendent of Police Ellenabad, District Sirsa.

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

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case on the basis of disclosure statement of his co-accused which is not of any evidentiary value against him. The petitioner was not arrested from the spot and no recovery was made from his possession. The recovery allegedly made from the filed of Het Ram cannot be attributed to the petitioner. The petitioner did not commit any offence and there is no direct evidence regarding his involvement in the crime. Rigors of Section 37(1)(b) of

the NDPS Act are not applicable qua the petitioner. The trial is likely to take long time and no useful purpose will be served by further detention of the petitioner in custody. Therefore, the petitioner may be granted regular bail.

On the other hand, learned State Counsel has submitted that as per the disclosure statement of his co-accused Narender Kumar @ Motu and his own disclosure statement, the petitioner had transported the poppy husk to the field from which the same was recovered by the police. The petitioner is a previous convict under the NDPS Act and was involved in two other cases. In view of the nature of accusation and gravity of the offence, the petitioner does not deserve grant 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, the fact that the petitioner was not arrested from the spot and no recovery was made from his possession and he has been implicated on the basis of disclosure statement of co-accused Narender @ Motu, inapplicability/satisfaction by due implication of rigors of Section 37(1)(b) of the NDPS Act qua the petitioner and the fact that the trial is likely to take long time due to restrictions imposed to prevent the spread of Covid-19, but without commenting on the merits of the case, I am inclined to extend the concession of regular bail to the petitioner.

In view of the above, 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 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 such offence by him after his release on bail, his bail in the present case shall also be liable to be cancelled on application to be filed in this regard.

17.11.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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