

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

214

**CRM-M-18655-2020
Date of decision: 31.07.2020**

Vijay @ Nara

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Simran Jeet Singh, Advocate
for the petitioner.

Mr. P.P. Chahar, 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 grant of regular bail in case FIR No.108 dated 15.05.2020 registered under Section 51 (b) of the Disaster Management Act, 2005, Sections 188 and 269 of the Indian Penal Code, 1860 (for short 'the IPC') and Section 22 (a) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') at Police Station Sadar Ratia, District Fatehabad.

Briefly stated, the case of the prosecution against the petitioner is that on 15.05.2020 police party comprising of ASI Anand Kumar, EASI Harlabh Singh, EHC Lal Chand and SPO Ajit Singh over powered co-accused Happy and Abhishek travelling on motorcycle bearing No.PB-31-S-5366 and on search recovered heroin weighing 4.90 grams from their possession. During investigation, co-accused

Happy and Abhishek implicated the petitioner as the person from whom they had purchased the heroin recovered from their possession.

The petition has been opposed by the learned State counsel. 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 record.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case. The petitioner was not arrested at the spot and no recovery was made from him. He has been implicated on the basis of disclosure statement of his co-accused. There is no evidence to connect him with the contraband. The petitioner was also falsely implicated in other cases in which he is on bail. The trial is likely to take long time. 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 argued that the petitioner is a habitual offender. The petitioner is involved in number of other cases of similar nature. In view of the gravity of the accusation, the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

Admittedly the petitioner is involved in number of other cases but undisputedly the petitioner is on bail in those cases and the petitioner is not a previous convict.

Keeping in view the facts and circumstances of the case particularly nature of accusation and evidence against the petitioner and also the fact that trial is likely to take long time due to restrictions

imposed to prevent spread of Covid-19 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 requisite 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 of similar nature after his release on bail and in case of commission of any offence of similar nature under the NDPS Act as well as the IPC 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.

31.07.2020

Vinay

**(ARUN KUMAR TYAGI)
JUDGE**

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