

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(204)

CRM No. M-20724-2020

Date of Decision : 07.10.2020

AMANDEEP SINGH @ AMNA

....Petitioner

Versus

STATE OF HARYANA

.....Respondent

(through video conferencing)

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Hitesh Kumar Sammi, Advocate for the petitioner.

Ms. Safia Gupta, Assistant Advocate General, Haryana.

Harsimran Singh Sethi, J. (Oral)

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in FIR No. 0096 dated 27.05.2020, under Sections 21/61/85 of NDPS Act, 1985, registered at Police Station Babain, District Kurukshetra.

Learned counsel for the petitioner argues that the recovery of 45 grams of Heroin, which has been done from the petitioner, is not a commercial quantity and, therefore, the petitioner be granted the benefit of regular bail . Learned counsel for the petitioner submits that in the order dated 04.07.2020, by which learned Additional Sessions Judge-cum-Judge Special Court, Kurukshetra, rejected the prayer of the petitioner for the grant of regular bail, it has been recorded that the petitioner is in custody since 26.05.2020, whereas the present FIR has been registered on

27.05.2020, which shows that the petitioner was arrested prior to the registration of the FIR and hence, petitioner is entitled for the grant of regular bail.

Upon notice of motion, the respondents were asked to clarify the discrepancy which has occurred, wherein the petitioner has been shown to be arrested on 26.05.2020, whereas the FIR was registered on 27.05.2020. Reply by way of an affidavit of DSP Ladwa, District Kurukshetra has been filed, wherein, it has been clarified that the arrest of the petitioner was effected on 27.05.2020 only after the registration of the FIR and the factum of the arrest on 26.05.2020 recorded in the order dated 04.07.2020 passed by the learned Additional Sessions Judge-cum-Judge Special Court, Kurukshetra is a typographical error and is incorrect. Learned counsel for the respondents further submits that though the quantity of the banned substance recovered from the petitioner is not a commercial quantity but the petitioner is a habitual offender as there is an another FIR being FIR No. 69 dated 28.07.2019 registered against the petitioner for violation of the NDPS Act, 1985 and the petitioner has committed the same offence again after getting the bail in the said FIR.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The conduct of the petitioner proves that he does not deserve the concession of bail. The petitioner was already facing a trial under the NDPS Act in respect of an FIR No. 69 dated 28.07.2019 and after getting the bail in the said FIR, he has indulged in the same act once again. This shows that the petitioner is a habitual offender in nature of committing the

offences and has rather violated the terms and conditions of the earlier bail granted to him in respect of FIR No. 69 dated 28.07.2019.

With respect of the averment that the petitioner was arrested on 26.05.2020 and the FIR was registered on 27.05.2020, respondents have clarified that the recording of the said fact is typographical/clerical error in the order dated 04.07.2020 passed by the learned Additional Sessions Judge-cum-Judge Special Court, Kurukshetra. It has been mentioned in the reply that the petitioner was arrested on 27.05.2020 after the registration of the FIR. This clarifies the position.

Keeping in view fact that the petitioner is habitual in committing the offences under the NDPS Act, 1985 and committed the present offence while on bail, the prayer of the petitioner for the grant of regular bail is hereby declined.

Dismissed.

October 07, 2020
kanchan/naresh.k

(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking? *Yes/No*
Whether reportable? *Yes/No*