

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-24090 of 2020 (O&M)

Date of Decision: 27.08.2020

Shankar Prashad Chanau

...Petitioner (s)

Versus

The State of Punjab

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Charanpreet Singh, Advocate
for the petitioner.

Mr. Saurav Khurana, DAG, Punjab.

HARI PAL VERMA, J. (Oral)

The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

CRM-20719-2020:

Prayer in this application filed under Section 482 Cr.P.C. is for exemption from filing process fee and Court fee.

Prayer for exemption from filing process fee and Court fee on account of COVID-19 is accepted with the condition that the petitioner shall deposit the required process fee and Court fee within a period of one month when the situation becomes normal from the COVID-19 effect.

Application stands disposed of.

Criminal Misc. No.M-24090 of 2020:

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.75 dated 20.03.2018 under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, “the NDPS Act”) registered at Police Station GRP Ludhiana, District Ludhiana.

Learned counsel for the petitioner submits that the alleged recovery made from the petitioner is 1 kg and 100 grams of *Charas*, which is marginally higher than the Commercial Quantity. The aforesaid weight included the weight of the polythene bag also. He has argued that there is no other case pending against the petitioner under NDPS Act and he is in custody since 20.03.2018. The trial in the case is not likely to be concluded in near future. He has further submitted that the petitioner is ready to furnish heavy surety. He has relied upon order dated 17.02.2018 of this Court passed in CRM-M-33843-2015 *Umar Singh Vs. State of Haryana*, wherein the alleged recovery was 1 kg and 200 grams of *Charas*, order dated 01.03.2018 passed by this Court in CRM-M-8100-2018 *Jagbir Singh Vs. State of Haryana*, wherein the alleged recovery was 1 kg and 300 grams of *Charas* and order dated 27.03.2018 passed by this Court in CRM-M-9932-2018 *Gurpreet Singh Vs. State of Punjab*, wherein the alleged recovery was 1 kg and 100 grams of *Charas* and the petitioners-therein were admitted on bail.

Learned State counsel does not dispute the custody of the petitioner as well as the quantity of the contraband so recovered from the petitioner. However, he has submitted that the petitioner belongs to the

State of Bihar and in case he is admitted on bail, the trial in the case may be hampered.

I have heard learned counsel for the parties.

The alleged recovery made from the petitioner is 1 kg. and 100 grams of *Charas*, which included the weight of the polythene bag also. Since the quantity of the contraband so recovered is marginally higher than the commercial quantity, there is no bar to grant regular bail to the petitioner. There is no other case pending against the petitioner under the NDPS Act and he is in custody since 20.03.2018. Therefore, it cannot be said that if the petitioner is released on bail, he might be indulged in activities which are violative of the provisions of the NDPS Act.

Accordingly, the present petition is allowed, however, the petitioner shall be released on regular bail on furnishing of bail bonds and heavy and local surety to the satisfaction of trial Court/Duty Magistrate. The petitioner shall also furnish an affidavit that he will not cause any delay in smooth trial of the case and the Court may continue with the trial in his absence also.

The observations made hereinabove shall not be construed as an expression of opinion on the merits of the case and the trial Court shall decide the case without being influenced with these observations in any manner.

August 27, 2020
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No