

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

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**CRM-M No.27748 of 2020
Date of decision:14.10.2020**

Shish Pal @ Titar

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. J.P.Dhull, Advocate for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana.

SUVIR SEHGAL J. (ORAL)

The Court has been convened through video conferencing due to Covid-19 pandemic.

Petitioner has filed this petition under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.155, dated 03.06.2020 registered under Section 21 of the NDPS Act, 1985 at Police Station Kalayat, Kaithal.

Counsel for the petitioner has argued that the petitioner has been falsely implicated in the case and the alleged recovery of 50 grams of heroin has been planted upon him. He submits that the petitioner was driving the motorcycles on which the co-accused Vikram @ Vicky was a pillion rider. Counsel contends that at the time of conducting search, mandatory provisions of the NDPS Act were not complied with

inasmuch as neither any independent witness was made to join nor any offer was made to the accused to get himself searched before a Magistrate or Gazetted Officer. Still further, he urges that the alleged recovery falls within the category of non-commercial quantity and the petitioner who is in custody since 06.06.2020 deserves to be enlarged on bail as trial is not progressing because of the pandemic. Counsel submits that petitioner is involved in one more case, wherein he is on bail. Counsel has placed reliance upon the order dated 17.09.2020 passed by this Court in CRM-M-27719-2020 whereby, co-accused Vikram @ Vicky was granted regular bail.

Opposing the petition, State counsel upon instructions from ASI Ujjawal Singh, submits that the recovery of contraband was effected from the pocket of the trouser of the petitioner and the same was in his conscious possession. He has instructions to state that the challan has been filed on 04.08.2020 and the charges are yet to be framed. 13 prosecution witnesses have been mentioned in the challan. He has filed the custody certificate dated 12.10.2020 which is taken on record. He submits that as per the custody certificate, the petitioner was involved in five cases, though he could not deny that the petitioner stands acquitted in four cases.

I have considered the rival submissions of the parties.

Keeping in view the above facts and circumstances, period of incarceration of the petitioner, quantity of recovery effected, following the principles of parity and the fact that the trial is likely to consume time due to spread of contagion, no useful purpose would be served by

keeping the petitioner behind the bars any further.

Without commenting anything on the merits of the case, the petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

It is clarified that any observation made hereinabove shall not be construed to be a reflection of opinion on the merits of the case.

14.10.2020

pooja saini

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No