

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

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CRM-M-31538-2020
Date of Decision: 14.10.2020

Kapil @ Kammu ... Petitioner

Versus

State of Haryana ... Respondent

CORAM : Hon'ble Mr. Justice Arun Kumar Tyagi

Present : Mr. D.S. Virk, Advocate
for the petitioner.

Mr. Naveen Singh Panwar, 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. 176 Dated 09.11.2019 registered under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, “the NDPS Act”) at Police Station Ding, District Sirsa.

As per the allegations in the FIR on 09.11.2019, the police party headed by ASI Satya Narain apprehended Simranjeet Kaur @ Simran and Sandeep Soni @ Deepu. On search, 350 grams of heroin was recovered from polythene contained in pithu bag carried by Sandeep Soni @ Deepu. However, nothing was recovered from the bag carried by Simranjeet Kaur @ Simran and also on her personal search. During investigation they disclosed that they had purchased the heroin from one Nigerian at Delhi through Kapil @ Kammu (the petitioner). The

petitioner was arrested on suspicion and on interrogation he made inculpatory disclosure statement.

The petitioner being in custody since 27.08.2020 has filed the present petition for grant of regular bail.

Pursuant to supply of advance copy, learned State counsel has appeared and opposed the petition. 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 relevant record.

Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in the case on the basis of disclosure statements of co-accused which are of not of any evidentiary value. No recovery was made from the petitioner. Rigors of Section 37(1)(b) of the NDPS Act are not applicable qua the petitioner. Co-accused Simranjeet Kaur @ Simran has already been granted regular bail by this Court vide order dated 11.08.2020. The trial is likely to take long time and no useful purpose will be served by further detention of the petitioner in custody during trial. Therefore, the petitioner may be granted regular bail.

On the other hand, learned State counsel has argued that the petitioner is accused of having committed heinous offence. The petitioner is involved in two more cases under the NDPS Act. In view of the gravity of accusation, the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

In reply to submissions made by learned State counsel, learned counsel for the petitioner has submitted that in one case the

petitioner has been acquitted while in other case he has been granted anticipatory bail vide order dated 17.11.2018 passed in CRM-M-37914-2018.

In view of the facts and circumstances of the case, nature of accusation, the fact that no recovery was made from the petitioner, statedly there being no cogent evidence except the disclosure statement of the co-accused, there being reasonable grounds to hold that the petitioner did not commit offence and that the petitioner is not likely to commit an offence under the NDPS Act after his release on bail, parity with co-accused Simranjeet Kaur @ Simran who has been granted bail by this Court vide order dated 11.08.2020 and also the fact that the trial is likely to take long time but without commenting on the merits of the case, I am of the considered view that the petitioner may be extended the concession of regular bail.

Therefore, 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 regular 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 any offence by him under the NDPS Act in future his bail in the present case shall also be liable to be cancelled on application to be filed in this regard.

14.10.2020*Vishal***(ARUN KUMAR TYAGI)
JUDGE**

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No