

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

214

CRM-M-34703-2020
Date of decision: 03.12.2020

Kadeer Ahmed

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Rajnish K. Gupta, Advocate
for the petitioner.

Mr. Anant Kataria, 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.153 dated 21.09.2020 registered under Sections 18 (c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "the NDPS Act") at Police Station Guhla, District Kaithal.

The petitioner, who is in custody since 21.09.2020, has filed the present petition for grant of regular bail.

The petition has been opposed by 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 relevant record.

Learned Counsel for the petitioner has submitted that the

petitioner was not apprehended on the spot and no recovery was made from him. Recovery of 1830 grams of opium was allegedly made from co-accused Taranvir Singh, Gulab Singh and Jagdeep Singh. In his disclosure statement, co-accused Taranvir Singh alleged that he had purchased the opium from one Miyan of Bareli. The petitioner is named as Kadeer Ahmed and he is not known as Miyan of Bareli but he has been wrongly claimed to be Miyan of Bareli. The quantity recovered from the co-accused falls in the category of non-commercial quantity and rigors of Sections 37(1)(b) of the NDPS Act are not applicable qua the petitioner. The petitioner is not involved in any other case under the NDPS Act. The trial is likely to take long time due to restrictions imposed to prevent the spread of infection of Covid-19 and 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 submitted that in view of the nature of accusation and gravity of the offence, the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

Keeping in view the facts and circumstances of the case, nature of accusation and evidence against the petitioner, inapplicability of rigors of Section 37(1)(b) of the NDPS Act as the case involves recovery of non-commercial quantity and also the fact that the trial is likely to take long time due to restrictions imposed to prevent the spread of Covid-19, but without commenting on the merits of the case, I am inclined to extend the concession of regular bail to the petitioner.

In view of the above, 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 such offence by him after his release on bail, his bail in the present case shall also be liable to be cancelled on application to be filed by the prosecution in this regard.

03.12.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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