

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

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**CRM-M-38447-2020
Date of decision: 15.12.2020**

Amarjeet @ Minta

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Jasvir Singh Dhaliwal, Advocate
for the petitioner.

Ms. Geeta Sharma, 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.244 dated 12.10.2020 registered under Section 21 (b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "the NDPS Act") at Police Station City Ratia, District Fatehabad.

The petitioner, who is in custody since 12.10.2020, has filed the present petition for grant of regular bail.

The petition has been opposed by learned State Counsel in terms of reply filed by way of affidavit of Subhash Chander, HPS, Deputy Superintendent of Police, HQ, Fatehabad in the registry which is taken on record.

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 has been falsely implicated in the case. No recovery was made from the petitioner. No independent witness was joined at the time of search. The quantity of 19.15 grams of heroin allegedly recovered from the petitioner 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 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 the petitioner is accused of having committed serious offence. The petitioner is involved in one more case under the NDPS Act. 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.

15.12.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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