

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

249

**CRM-M-42222-2020
Date of decision: 21.12.2020**

Raj Kumar @ Lilu

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Parminder Singh, Advocate
for the petitioner.

Mr. Bhupender Singh, 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 petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.513 dated 16.10.2020 registered under Sections 15 and 25 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act') at Police Station Sector 32-33, Karnal.

As per the prosecution version, on 16.10.2020 police party headed by SI Rohtash Singh along with other police officials, on secret information, apprehended the petitioner along with truck bearing registration No.KA-01-AJ-1114 and on search recovered 10 kg and 500 gms of poppy husk from the polythene bag of white colour lying on the seat behind the driver seat.

Learned State Counsel has appeared and opposed the bail application. 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 record.

Learned Counsel for the petitioner has argued that the petitioner has been falsely implicated in the case. Mandatory provisions of the NDPS act were not complied with. No independent witness was joined at the time of alleged recovery. Recovery alleged to have been

effected from the petitioner falls under the category of non-commercial quantity. The petitioner is in custody since 16.10.2020. Rigors of Section 37(1)(b) of the NDPS are not applicable. Trial is likely to take long time due to restrictions imposed to prevent spread of infection of Covid-19. No purpose will be served by keeping the petitioner in custody. Therefore, the petitioner may be ordered to be released on regular bail.

On the other hand, learned State Counsel has argued that the petitioner is accused of having committed serious offence by keeping the contraband in his possession. The petitioner does not deserve the concession 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, non-applicability of Section 37(1)(b) of the NDPS Act due to recovery of non-commercial quantity of poppy husk from his possession and the fact that the trial is likely to take long time but without commenting on merits of the case, I am of the considered view that the petitioner deserves the concession of regular bail.

Therefore, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of bail bonds to the satisfaction of the trial Court/Chief Judicial Magistrate concerned.

However, the petitioner is granted regular bail subject to the condition that the petitioner shall not commit any offence under the NDPS Act after his release on bail and in case of commission of any offence under the NDPS Act 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 in this regard.

21.12.2020

Kothiyal

(ARUN KUMAR TYAGI)
JUDGE

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