

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

(Heard through VC)

CRM-M-48642 of 2019 (O&M)
Date of Decision: December 15, 2020

Varinder Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Ms. Arti Kaur, Advocate
for the petitioner.

Ms. Samina Dhir, DAG Punjab.

JAISHREE THAKUR, J. (Oral)

The instant petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.66 dated 16.07.2019, under Section 22 of NDPS Act, registered at Police Station Sadar Nawanshahr, District SBS Nagar.

Learned counsel for the petitioner *inter alia* would contend that the petitioner herein was taken into custody in the aforesaid FIR on 16.07.2019 and the trial is not proceeding. Counsel for the petitioner would contend that a reading of the FIR would reflect that the police in a private vehicle with a printer and laptop were patrolling regarding suspicious persons. It is argued that this a case of chance recovery and, therefore, the ingredients of Section 50 of NDPS Act have not been complied with. It is

also submitted that there is non-compliance of the instructions dated 27.04.2015 issued by the DGP Punjab insofar as using of the private vehicles.

Per contra, learned counsel appearing on behalf of respondent-State, on instructions from the Investigating Officer, opposes the grant of regular bail to the petitioner, while submitting that the instructions as issued by the DGP Punjab are not applicable in the present case and that since the recovery was from a bag, personal search in the presence of the Gazetted Officer would not be required. It is also argued that the recovery falls within the commercial quantity, while there is one another case pending against the petitioner under the NDPS Act. Learned State counsel would also submit that there is an absolute bar under Section 37 of the Act in allowing bail.

I have heard learned counsel for the parties.

In view of the facts that the petitioner herein has been in custody since 16.07.2019; investigation is complete as the challan has already been presented and because of Covid-19 pandemic, the courts are not functioning at their full strength, as such, no useful purpose would be served in keeping the petitioner behind bars. This court is also of the knowledge that the petitioner herein had been allowed interim bail on an earlier occasion on account of being HIV positive patient and suffering from Hepatitis C. At this stage, without commenting on the merits of the case, the instant petition is allowed and the petitioner is directed to be released on regular bail on execution of adequate personal bond and surety bond to the satisfaction of concerned trial Court/Duty Magistrate.

However, anything observed or said by this court is only for the purpose of deciding the instant petition for grant of regular bail and the same shall have no affect on the merits of the case.

December 15, 2020
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(JAISHREE THAKUR)
JUDGE

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