

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-50728-2019 (O&M)

Date of Decision: 20.08.2020

Malkit

... Petitioner

VS.

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE GIRISH AGNIHOTRI

Present: Mr. Rajesh Lamba, Advocate for the petitioner

Mr. Rajiv Goel, DAG Haryana

GIRISH AGNIHOTRI, J. (Oral)

The matter has been taken up through video conferencing on account of lockdown due to outbreak of COVID-19 pandemic.

The petitioner Malkit aged 40 years has filed the present petition *inter alia* with a prayer for grant of regular bail in case FIR No.449 dated 25.08.2019 under Section 15 of the NDPS Act, 1985 registered at PS City Fatehabad, District Fatehabad.

Learned counsel makes reference to the order dated 13.08.2020 passed by this Court which is reproduced hereunder:-

“Learned counsel for the State submits that the petitioner is in custody since 26.08.2019 and recovery of 13 Kgs of poppy straw has been effected from the petitioner which comes under non-commercial quantity. He further informs that the petitioner has been facing trial in 4 other cases of NDPS Act due to recovery of non-commercial quantity. However he seeks time to file custody certificate.

List on 20.08.2020.”

Learned State counsel, on instructions from SI Baldev Raj, submits that there are many cases against the petitioner. It is also submitted that the challan in this case was presented on 23.10.2019. There are a total of 12 witnesses and the charges are yet to be framed.

Faced with this situation, learned counsel for the petitioner submits that the petitioner was arrested on 26.08.2019 and has thus nearly completed one year of custody. He submits that he has not hidden any fact from the Court and details of all the cases pending against the petitioner have been explained in para 4 of the petition. However, it is submitted that as is evident, in many cases, the petitioner has been acquitted also and therefore the possibility of mistaken identification or false implication cannot be ruled out.

Faced with this situation, counsel for the petitioner then submits that due to the present COVID-19 situation, detention of the petitioner in jail would be dangerous to his life and also the fact that trial is likely to take some time, the petitioner is entitled for regular bail. Learned counsel thus prays that due to COVID-19 situation, the petitioner be sympathetically considered for grant of regular bail with any stringent condition.

In view of the peculiar facts noticed above and the present situation due to COVID-19, this Court deems it appropriate to direct release of the petitioner on regular bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate concerned, subject to his furnishing bail bonds/surety bonds.

In addition, the petitioner is directed to deposit FDR of Rs.5 lakhs valid for 5 years or equivalent-value property papers. The petitioner will give an undertaking that he would not encash the said FDR or

not create any encumbrance on the property/papers so submitted for a period of 5 years and, if need be, shall further renew the said undertaking. It is also made clear and shall be so recorded in the undertaking that in case the petitioner is found involved and is held guilty in any subsequent case after this, the said amount/property shall be forfeited and the same shall be transferred to the Government Treasury.

However, it is made clear that anything observed herein shall not be construed as an expression on merits of the case.

The petition stands disposed of accordingly.

20.08.2020

vishal shonkar

(Girish Agnihotri)
Judge

- 1. *Whether speaking/reasoned?*
- 2. *Whether reportable?*

Yes/No
Yes/No