

CRM-M NO. 51452 of 2019
Date of decision : 20.01.2020

Jan Pal SinghPetitioner
Versus
State of HaryanaRespondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Rahul Vats, Advocate
for the petitioner.

Mr. Arjun Singh Yadav, Asst.AG Haryana
for respondent-State.

ARUN KUMAR TYAGI,J. (ORAL)

The petitioner has filed the present (second) petition under Section 439 read with Section 482 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No. 122 dated 23.09.2019 registered under Section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') at Police Station Jhansa, District Kurukshetra.

On his first petition, the petitioner was ordered to be released on bail till receipt of FSL Report but before his release on bail, FSL Report was received. Subsequent to receipt of the FSL Report the petitioner has filed present petition for bail.

Reply by way of affidavit of Sh. Raj Kumar, HPS, Deputy Superintendent of Police, Kurukshetra on behalf of respondent-State was filed in the Registry, which is taken on record.

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 allegedly 50 grams of opium was recovered from the petitioner. The alleged

recovery is non-commercial in nature. The mandatory provisions of the NDPS Act were not complied with. No independent witness was joined. The petitioner has been falsely implicated in the case. The petitioner is in custody since 23.09.2019. Trial is likely to take long time and 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 kept in his possession 50 grams of opium. The petitioner being previous convict does not deserve grant of bail. Therefore, the petition may be dismissed.

Keeping in view the facts and circumstances of the case, involvement of the question as to whether the petitioner can be said to be in conscious possession of the contraband, non applicability of Section 37(1)(b) of the NDPS Act and also the fact that trial is likely to take long time but without commenting on merits, 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 personal and surety bonds by him to the satisfaction of the trial Court/Chief Judicial Magistrate, Kurukshetra.

However, it is made clear that in case of commission of any offence under the NDPS Act by the petitioner in future, his bail in this case shall also be liable to be cancelled on application to be filed in this regard.

20.01.2020

Rajeev (rvs)

Whether speaking/reasoned
Whether reportable

**(ARUN KUMAR TYAGI)
JUDGE**

Yes/No
Yes/No