

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

224

CRM-M-51767-2019

Date of decision: 08.01.2020

Prahlad Singh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. R.S. Mamli, Advocate
for the petitioner.

Mr. Kuldeep Tiwari, Addl. A.G. Haryana
for the respondent-State.

ARUN KUMAR TYAGI, J (ORAL)

Prayer in the present 2nd petition filed under Section 439 of the Code of Criminal Procedure is for grant of regular bail to the petitioner in case FIR No.1255 dated 27.12.2018 registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act') at Police Station Sirsa City, District Sirsa.

His 1st application for grant of regular bail was dismissed as withdrawn by the Coordinate Bench of this Court vide order dated 16.07.2019.

The petitioner and his co-accused Deepak Kumar @ Deepu have been charge-sheeted by SHO, Police Station Sirsa City, District Sirsa for alleged commission of offence punishable under Section 22 of the NDPS Act on the allegations of recovery of 51 strips of Tramadol Hydrochloride PARVORIN-SPAS ridley containing 10 capsules each from a polythene bag carried between him and his co-accused Deepak Kumar @ Deepu who was pillion rider sitting in the motorcycle driven by the petitioner.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated. No recovery was effected from his possession. The petitioner cannot be said to be in conscious

possession of the contraband allegedly recovered from the possession of co-accused Deepak Kumar @ Deepu who was the pillion rider having the bag in question and the petitioner cannot be said to be aware of the contents thereof. The mandatory provisions of the NDPS Act were not complied with. The petitioner is not involved in any other case under the NDPS Act. Therefore, the petitioner may be ordered to be released on regular bail.

On the other hand, learned State Counsel has submitted that the petitioner is accused of having committed serious offences by keeping commercial quantity of the contraband in his conscious possession along with his co-accused and the petitioner does not deserve the concession of regular bail. However, learned State Counsel has conceded that the petitioner is not involved in any other case under the NDPS Act.

Keeping in view the facts and circumstances of the case, involvement of question as to whether the petitioner can be said to be in conscious possession of the contraband recovered from his co-accused Deepak Kumar @ Deepu and the fact that he is not involved in any other case under the NDPS Act which by implication satisfies both the conditions of Section 37(1)(b) of the NDPS Act but without expressing any opinion on merits of the case, I am of the considered view that the petitioner deserves the concession of regular bail.

In view of the above discussion, the petition is allowed and the petitioner is ordered to be released on bail on furnishing of bail bonds to the satisfaction of the Trial Court/Duty Magistrate.

However, in case of commission of any offence under the provisions of the NDPS Act by the petitioner in future, his bail in the present case shall also be liable to be cancelled on filing of application in this regard.

08.01.2020

Kothiyal

(ARUN KUMAR TYAGI)
JUDGE

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