

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

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**CRM-M No. 52742 of 2019
Date of decision : 22.01.2020**

Rohit Kumar @ Gollu

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Ashish Bakshi, Advocate
for the petitioner.

Mr. Sandeep Singh Deol, D.A.G. Punjab
for respondent-State.

ARUN KUMAR TYAGI, J. (ORAL)

The petitioner has filed the present (first) petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No. 183 dated 12.10.2019 registered under Sections 22 and 61 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') at Police Station Model Town, District Ludhiana.

As per the prosecution version, the petitioner and his co-accused were raided and over powered on the basis of secret information and recovery of 50 grams of Smack was made from the pocket of the petitioner while recovery of 300 grams of smack was made from the pocket of co-accused Harvinder Singh @ Gaba and samples and **remaining** contraband were sealed as per the prescribed procedure. On completion of investigation pursuant to registration of the above said FIR the police filed report under Section 173(2) of the Cr.P.C against them. The petitioner is in custody since 12.10.2019.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated. No independent witness was joined at the time of recovery. Mandatory provisions of the NDPS Act were not complied with. Recovery of non-commercial quantity of smack was made from possession of the petitioner. Section 37(1)(b) of the NDPS Act is not applicable. The petitioner is not involved in any other case under the NDPS Act. The trial is likely to take long time. No useful purpose will be served by further detention of the petitioner in custody.

On the other hand learned State Counsel has submitted that the petitioner was found in conscious possession of the narcotic substance and in view of the nature of accusation the petitioner does not deserve grant of regular bail. However, learned State Counsel has conceded that the petitioner is not involved in any other case under the NDPS Act and Section 37(1)(b) of the NDPS Act is not applicable qua him.

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 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.

Accordingly, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of bail bonds by him to the satisfaction of the Trial Court/Chief Judicial Magistrate, Ludhiana.

22.01.2020

Rajeev (rvs)

(ARUN KUMAR TYAGI)**JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No