

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

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**CRM-M No. 53276 of 2019
Date of decision : 30.01.2020**

Sumer Singh @ Foji @ Bucha

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. P.S.Sullar, 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 (first) petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.173 dated 10.06.2019 registered under Sections 186, 353 and 120-B of the Indian Penal Code, 1860 (for short 'the IPC) and under Sections 20-B and 27-A of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') at Police Station Kasola, District Rewari.

As per the prosecution version on 10.06.2019 police party headed by ASI Satish Kumar conducted *nakabandi* on the basis of secret information and stopped car bearing registration number DL-4 CAE-1306 owned by accused Azad Singh and driven by accused Sonu Ram and on search as per the prescribed procedure recovered 131.35 kgs ganja and 9.100 kgs of sulfa. During interrogation accused Azad Singh made disclosure statement that he had purchased the narcotic substances from Sumer Singh @Fauji @ Bucha- present petitioner. On completion of

investigation, the petitioner was charge-sheeted along with his co-accused to face trial under Sections 186, 353 and 120-B of the IPC and under Sections 20-B and 27-A of the NDPS Act.

The petitioner who is in custody since 09.08.2019 has filed present petition for grant of regular bail.

Learned State Counsel has appeared and opposed the bail application.

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 the petitioner was not arrested on the spot and no recovery was made from his possession. The petitioner has been falsely implicated in this case on the basis of disclosure statement allegedly made by co-accused Azad Singh which is not admissible and is not of any evidentiary value against him. Apart from his disclosure statement, there is no evidence regarding involvement of the petitioner in the case. There is no other material to connect the petitioner with the narcotic substances allegedly recovered from possession of his co-accused. Trial is likely to take time and no purpose will be served by keeping the petitioner in custody. He is not involved in any other case under the NDPS Act. Rigors of Section 37(1)(b) of the NDPS are not applicable qua the petitioner. 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 supplied 131.35 kgs *ganja* and 9.100 kgs of *sulfa* to his co-accused Azad Singh and Sonu Ram and the petitioner does not deserve the concession of regular bail. Therefore, the petition may be dismissed.

However, learned State Counsel has conceded that the petitioner is not involved under the NDPS Act.

Keeping in view the facts and circumstances of the case, particularly that the petitioner was not apprehended on the spot, no recovery was made from him, there is no material/evidence against him except the disclosure statement of his co-accused to connect him with the narcotic substances recovered, he is not involved in any other case under the NDPS Act, rigors of Section 37(1)(b) of the NDPS Act will not apply qua the petitioner and also stand satisfied by implication and also the fact that trial is likely to take long time but without commenting on the merits of the case, 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 bail bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate concerned.

However, it is made clear that in case of involvement of the petitioner in commission of similar offence in future, the bail in this case shall also be liable to be cancelled on application to be filed in this regard.

30.01.2020

Rajeev (rvs)

**(ARUN KUMAR TYAGI)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No