

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

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CRM-M-54185-2019

Date of decision: 07.01.2020

Kapil Dev

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. G.S.Sandhu, Advocate
for the petitioner.

Mr. Arjun Singh Yadav, Asstt. A.G., Haryana

ARUN KUMAR TYAGI, J (ORAL)

Prayer in the present 1st petition filed under Section 439 of the Code of Criminal Procedure is for grant of regular bail to the petitioner in case FIR No.0048 dated 18.09.2019 registered under Sections 18 and 25 of the NDPS Act, 1985 at Police Station Nigdhu, District Karnal.

The petition has been opposed by learned State Counsel. However, no written reply has been filed by the respondent-State.

Learned Counsel for petitioner has submitted that the petitioner has been falsely implicated in the case. The mandatory provisions of the NDPS Act were not complied with. No independent witness was joined in the investigation. The alleged recovery of opium from possession of petitioner is of 1 Kg and 15 grams opium which is less than commercial quantity and Section 37 of the NDPS Act is not applicable in the present case. The trial is likely to take long time. The petitioner is in custody since 19.09.2019 and no useful purpose will be served by further detention of the petitioner in custody. The petitioner is not involved in any other case of 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 offence by

keeping 1 Kg and 15 grams opium 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, nature of accusation against the petitioner, alleged recovery being of non-commercial quantity, non applicability of Section 37 (1) (b) of the NDPS Act, the fact that the petitioner is not involved in any other case under the NDPS Act and the period of his custody 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.

Accordingly, 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/Chief Judicial Magistrate/Duty Magistrate, Karnal.

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.

07.01.2020

kavneet singh

(ARUN KUMAR TYAGI)
JUDGE

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