

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

106

**CRM-M-711-2021
Date of decision: 06.04.2021**

Jangir Singh

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Harvinder Singh Maan, Advocate
for the petitioner.

Mr. Ranvir Singh Arya, Addl. A.G., Haryana
for the respondent-State.

ARUN KUMAR TYAGI, J. (ORAL)

(The case has been taken up for hearing through video conferencing.)

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.440 dated 12.09.2020 registered under Section 21(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "the NDPS Act") at Police Station City Fatehabad, District Fatehabad.

The petitioner being in custody has filed the present petition for grant of regular bail.

The petition has been opposed by the learned State Counsel in terms of status report filed by way of affidavit of Ajaib Singh, HPS, Deputy Superintendent of Police, Fateahabad on behalf of respondent-State in the Registry of this Court which is taken on record.

I have heard learned Counsel for the petitioner and learned

State Counsel and gone through the relevant record.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case. As per the allegations, recovery of six grams of heroin was allegedly made from the petitioner which falls in the category of non-commercial quantity. Mandatory provisions of the NDPS Act were not complied with. The petitioner was falsely involved in four other cases under the Punjab Excise Act and one more case under the NDPS Act. He has been granted bail in all the cases. In other case under the NDPS Act the petitioner was implicated on the basis of disclosure statement of the co-accused and no recovery was made from him. The trial is likely to take long time due to restrictions imposed to prevent the spread of Covid-19 and no useful purpose will be served by further detention of the petitioner in custody during trial. Therefore, the petitioner may be granted regular bail.

On the other hand, learned State has submitted that the petitioner is a habitual offender and is involved in four other cases under the Punjab Excise Act and one more case under the NDPS Act. In view of his antecedents, nature of accusation and gravity of offence, the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

Keeping in view the facts and circumstances of the case, nature of accusation and evidence against the petitioner, the fact that the quantity of the contraband allegedly recovered from him falls under the category of non-commercial quantity and rigors of Section 37(1)(b) of the NDPS Act are not applicable and also the fact that the trial is

likely to take long time due to restrictions imposed to prevent the spread of infection of Covid-19, but without commenting on the merits of the case, I am inclined to extend the concession of regular bail to the petitioner.

In view of the above, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of personal and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

However, the petitioner is granted regular bail subject to the condition that he shall not commit any offence under the NDPS Act after his release on bail and in case of commission of any such offence by him in future, his bail in the present case shall also be liable to be cancelled on application to be filed by the prosecution in this regard.

06.04.2021

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(ARUN KUMAR TYAGI)
JUDGE

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