

CRM-M No.2042 of 2021
Date of Decision : 23.02.2021

Charanjit

...Petitioner

Versus

State of Haryana

....Respondent

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Namit Khurana, Advocate for the petitioner.

B.S. Walia, J. (VC)

1. Case is being taken up for hearing through Video Conferencing due to Covid-19 pandemic.
2. Prayer in the petition under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.130 dated 27.11.2020, registered under Sections 21 and 61 NDPS Act at Police Station Gandhi Nagar, District Yamuna Nagar.
3. Learned counsel for the petitioner contends that the petitioner was apprehended on 27.11.2020 along with 20 gms of smack, that the petitioner has been falsely implicated in the aforementioned case, that neither any recovery remained to be effected from the petitioner nor was his custodial interrogation required, besides, the petitioner had been in custody since 27.11.2020 and no useful purpose would be served by detaining the petitioner in further judicial custody as investigation in the case qua the petitioner was complete and the trial would take time to

4. Mr. Naveen Sheoran, DAG, Haryana appearing on behalf of the State confirms that the investigation of the case qua the petitioner is complete, Challan has been filed and the case is now listed on 02.03.2021 for framing of charges as also that the recovery from the petitioner was in fact only of 20 gms of smack.

5. Learned counsel for the petitioner states that the contraband allegedly recovered from the petitioner is non-commercial quantity as commercial quantity of smack starts at 250 gms as per serial No.56 of the Schedule and further that the petitioner is not involved in any other case under the NDPS Act.

6. Leaned DAG states that no doubt, the commercial quantity of smack is 250 gms and smack recovered from the petitioner was only 20 gms but the same is four times the small quantity, therefore, the petitioner is not entitled to grant of bail.

7. I have considered the submissions of learned counsel for the parties.

8. Admittedly, commercial quantity of smack as per serial No.56 of the Schedule / notification is 250 gms whereas the quantity recovered from the petitioner is only 20 gms. The petitioner is not involved in any other case under the NDPS Act. Challan has been presented but charges have not been framed so far and the case is now listed on 02.03.2021 for framing of charges, besides, the petitioner has been in custody since 27.11.2020.

9. Accordingly, without commenting upon the merits of the case and keeping in view the position as noted above, as well as the

situation prevailing on account of Covid-19 pandemic as well as the stage of the trial, it is deemed appropriate to release the petitioner on regular bail.

10. Accordingly, in view of the position noted above, the petition under Section 439 Cr. P.C. is allowed and the petitioner is ordered to be released on bail during the pendency of the trial in the instant case provided he is not required in any other case subject to his furnishing bail bonds / surety to the satisfaction of the learned trial Court / CJM / Duty Magistrate. It is however made clear that in case the petitioner is involved in another case under the NDPS Act during the period he is on bail in the instant case, bail granted to him is liable to be cancelled on an application being moved by the prosecution. However, nothing stated hereinabove shall be construed as an expression of opinion on the merits of the case.

(B.S. Walia)
Judge

February 23, 2021
'Rajneesh'

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