

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

107

**CRM-M-10541-2021
Date of Decision : 23.03.2021**

Shekhar Chander @ Shekhar

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Naresh Kumar Ganga, Advocate
for the petitioner.

Mr. Ashok Singh Chaudhry, Addl. A.G., Haryana
for the respondent-State.

ARUN KUMAR TYAGI, J. (Oral)

The petitioner has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.361 dated 31.10.2020 registered under Sections 20 and 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') in Police Station Sadar Sirsa, District Sirsa.

Learned State Counsel has appeared and opposed the bail application. However, no reply has been filed by the respondent-State.

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 has been falsely implicated in the present case. Recovery of 4 kgs. of Ganja and 30 grams of heroin was allegedly made from co-accused Brijesh on 31.10.2020 by the police party headed by ASI Tarsem Singh. During investigation Brijesh made statement alleging that he purchased the recovered contraband from Rajbir on the asking of the present petitioner. There is no evidence to substantiate the disclosure statement of the co-accused. Nothing was recovered from the petitioner. Rigors of Section 37(1)(b) of the NDPS are not applicable qua the petitioner. Challan has been filed against the petitioner but charges are

yet to be framed. The petitioner is in custody since 02.11.2020. Trial is likely to take long time due to restrictions imposed to prevent spread of infection of Covid-19 and no purpose will be served by keeping the petitioner in custody. Therefore, the petitioner may be granted regular bail.

On the other hand, learned State Counsel has argued that the petitioner is a habitual offender and is involved in two other cases under the NDPS Act. The petitioner does not deserve the concession of regular bail. Therefore, the petition may be dismissed.

Keeping in view the facts and circumstances of the case, nature of accusation against the petitioner as the petitioner is implicated in the present case on the basis of disclosure statement of co-accused- Brijesh, in-applicability of rigors of Section 37(1)(b) of the NDPS Act qua the petitioner as nothing was recovered from his possession and the fact that the petitioner is on bail in both the cases registered against him under the NDPS Act coupled with the fact that the trial is likely to take long time due to restrictions imposed to prevent spread of infection of Covid-19 but without commenting 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 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 similar offences under the NDPS Act after his release on bail and in case of commission of similar offences by him in future his bail in the present case shall also be liable to be cancelled on application to be filed in this regard.

23.03.2021

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(ARUN KUMAR TYAGI)
JUDGE

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