

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(204)

CRM-M-16653-2021

Date of Decision : April 27, 2021

Makbool Khan @ Mulla

.. Petitioner

Versus

State of Punjab

.. Respondent

(Through video conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Harvinder Pal Singh Ghuman, Advocate, for the petitioner.

Mr. Amar Ashok Pathak, Addl. Advocate General, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

Present petition has been filed under Section 439 Cr.P.C for the grant of regular bail to the petitioner in respect of FIR No.86 dated 06.09.2019, under Section 22 of the NDPS, Act, 1985 registered at Police Station Kotwali Nabha, District Patiala.

Learned counsel for the petitioner argues that there is no progress of the trial and the petitioner is behind the bars since 06.09.2019 and therefore, keeping in view the fact that the petitioner is behind the bars for more than one and half year, he be granted the benefit of regular bail.

Notice of motion.

Mr. Amar Ashok Pathak, learned Additional Advocate General, Punjab, who has joined the proceedings through video conference, keeping in view the service of advance copy of petition, accepts notice on behalf of the respondent-State.

Learned counsel for the respondent-State submits that the contraband was recovered from the petitioner and the said contraband is in commercial quantity and therefore, the petitioner may kindly not be granted the benefit of bail.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The custody is not material in the case where the violation of the NDPS Act has been alleged especially where the quantity of the contraband recovered from the accused is of commercial in nature. The provisions of Section 37 of the NDPS Act are very clear that the bail can only be granted in case, the Court finds that prima-facie, the accused is not guilty of the allegations or the accused is not likely to commit the first offence again, if granted bail.

In the present case, not even a single argument has been raised qua the offence alleged against the petitioner and prayer for the grant of bail is only on the ground that the petitioner is in custody for one year and six months.

Keeping in view the facts and circumstances of this case, this Court cannot form an opinion at this stage that the petitioner is not guilty of the allegations alleged against him in the FIR and he will not commit the same again, if granted bail.

In view of the above, the present petition is dismissed.

April 27, 2021
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

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