

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

207

CRM-M No.18238 of 2021
Date of decision:20.05.2021

Devender

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Pradeep Chhoker, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

SUVIR SEHGAL J. (ORAL)

The Court has been convened through video conferencing due to Covid-19 pandemic.

Petitioner has filed this petition under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.134, dated 10.02.2021 registered under Sections 15, 27 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short -the NDPS Act), registered at Police Station Old Industrial Panipat, District Panipat, Haryana.

As per the version of the prosecution, FIR was registered after 50 kg 540 grams of Chura Post (Poppy Straw) was recovered from the person of co-accused Ashok Kumar.

Counsel for the petitioner submits that the petitioner has not been named in the FIR and he has been arraigned as an accused on the basis of the disclosure statement of the co-accused. It is his case that accused Ashok Kumar named Amit and Jacky Singh, who in turn, revealed the name of Krishan @ Kanna, who allegedly was supplying the

prohibited substance through his driver Devender i.e. the present petitioner. Counsel has further urged that the recovery effected from the co-accused is marginally above the threshold of non-commercial quantity as specified in the notification issued under Section 2 (viia) and (xxiia) of the NDPS Act, 1985. Counsel asserts that the petitioner has clean antecedents, challan stands presented and the petitioner, who is no longer required for custodial interrogation, deserves to be released on bail.

Opposing the petition, learned State counsel upon instructions from ASI Jawaharlal, submits that the final report under Section 173 Cr.P.C. has been submitted on 07.04.2021 and one out of the five accused, namely, Krishan @ Kanna is yet to be arrested. As per his instructions, there are 21 witnesses mentioned in the challan and the trial is fixed for 28.07.2021 for consideration on the framing of the charge. State counsel, however, is not in a position to deny the fact that the petitioner has an unblemished past and been made an accused on the basis of the disclosure statement of the co-accused.

I have considered the rival submissions of the parties.

From the facts and circumstances noticed above, the involvement of the petitioner in the crime is debatable. Still further, the quantity recovered from the co-accused is a little above the upper limit of non-commercial quantity laid down under the Act.

Considering the nature of allegations, gravity of offence and the fact that the trial is likely to take time to conclude, no purpose would be served by keeping the petitioner behind bars any further.

Without commenting anything on the merits of the case, the petition is allowed and the petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

20.05.2021
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No