

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

213

CRM-M-19524-2021

Date of decision: 24.05.2021

Vikramjeet Singh @ Dhoni

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Vaibhav Narang, Advocate
for the petitioner.

Mr. P.S. Walia, Asstt. A.G., Punjab
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 petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.53 dated 27.02.2021 registered under Sections 21-C and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "the NDPS Act") in Police Station Chheharta, District Police Commissionerate, Amritsar.

As per the prosecution version on 27.02.2021 in the area of Sher Shah Suri Road, Amritsar the petitioner and his co-accused Harpreet Singh @ Mantri were apprehended by the police party headed by ASI Dilbagh Singh and on search in the presence of Devdutt, ACP West Amritsar. Recovery of heroin weighing 264 grams was made from polythene packet kept by co-accused Harpreet Singh @ Mantri in the right pocket of his trouser. FIR was accordingly registered and the

matter is under investigation and FSL report is yet to be received.

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

The petition has been opposed by learned State Counsel. 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 relevant record.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case. No contraband was recovered on personal search of the petitioner. Heroin weighing 264 grams falling in the category of commercial quantity was recovered on personal search of co-accused Harpreet Singh @ Mantri. The petitioner cannot be said to be aware of the contraband kept by co-accused Harpreet Singh @ Mantri in the pocket of his trouser and the petitioner cannot be said to be in conscious possession thereof. Rigors of Section 37(1)(b) of the NDPS Act are not applicable to the case of the petitioner. The petitioner is not involved in any other case under the NDPS Act. The investigation and trial are likely to take long time due to restrictions imposed to prevent the spread of Covid-19. No useful purpose will be served by further detention of the petitioner in custody. Therefore, the petitioner may be granted regular bail.

On the other hand, learned State Counsel has submitted that the petitioner along with his co-accused kept commercial quantity of heroin in their conscious possession. In view of the nature of accusation and gravity of the offence, the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

However, learned State Counsel has conceded that the petitioner is not involved in any other case under the NDPS Act.

In the present case no contraband was recovered on personal search of the petitioner and recovery of 264 gms. of heroine falling in the category of commercial quantity was made on personal search of co-accused Harpreet Singh @ Mantri. The case involves debatable question as to whether the petitioner can be said to be in conscious possession of commercial quantity of heroin allegedly recovered on personal search of co-accused Harpreet Singh @ Mantri. The petitioner is not involved in any other case under the NDPS Act.

In view of the facts and circumstances of the case, the fact that no recovery was made from the petitioner who is not involved in any other case under the NDPS Act and prima facie rigors of Section 37(1)(b) of the NDPS Act are not applicable to him or in any case stand duly satisfied by due implication as there are reasonable grounds to believe that the petitioner has not committed any offence under the NDPS Act and in view of his antecedents he is not likely to commit any offence under the NDPS Act in future coupled with the fact that the investigation and trial are likely to take long time due to restrictions imposed to prevent the spread of Covid-19, but without commenting on the merits of the case as the same may prejudice case of either of the parties, 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 concerned trial

Court/Chief Judicial Magistrate/Duty Magistrate.

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.

24.05.2021

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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