

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

(221)

CRM-M-21929-2021

Date of decision:- 28.06.2021

Ashok**... Petitioner****Versus****State of Haryana****... Respondent****CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

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

Mr. Gurmeet Singh, AAG, Haryana.

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SUVIR SEHGAL, J. (ORAL)

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

Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No. 134 dated 10.02.2021 under Sections 15, 27 and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Old Industrial Panipat, District Panipat, Haryana.

FIR, in question, has been registered upon recovery of 50 kg 540 grams of chura post (poppy husk) from the person of Ashok Kumar (present petitioner).

Counsel for the petitioner submits that the petitioner has been falsely implicated in the case and the recovery allegedly effected from him is marginally above the threshold of non-commercial quantity specified in the notification issued under the provisions of the NDPS Act. Counsel

submits that the petitioner has a clean past, investigation is complete, challan has been presented and the petitioner is no longer required for custodial interrogation. Counsel has placed reliance upon order dated 20.05.2021 (Anneuxre P-2) passed in CRM-M-18238-2021 whereby co-accused - Devender was released on bail pending trial, by this Court.

Per contra, learned State Counsel upon instructions from ASI Jawaharlal submits that though the challan has been presented on 07.04.2021 but one one of the five accused namely Krishan @ Kanna is yet to be arrested and his petition for grant of pre-arrest bail is pending before the Sessions Court. Upon further instructions, he submits that there are 21 witnesses mentioned in the challan and the trial is fixed for 28.07.2021 for consideration on framing of charge. He has instructions to state that the petitioner is not involved in any criminal case though the recovery in the present case has been effected from his person.

I have considered the respective submissions of the parties.

Considering the fact that the petitioner has an unblemished past and the recovery effected from him is marginally above the threshold limit of non-commercial quantity, this Court, is prima facie, of the opinion that the petitioner is entitled to be released on bail.

Keeping in view the above facts and circumstances, period of incarceration of the petitioner, nature of allegations, gravity of offences and the fact that the trial is likely to take time, no useful 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 namely Ashok is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

The petitioner shall furnish an undertaking to the effect that henceforth, he will not indulge himself in any criminal activity. In case, he violates the undertaking, it will be open for the prosecution to seek cancellation of his bail.

It is clarified that any observation made hereinabove shall not be construed to be a reflection of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

28.06.2021
Kamal

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