

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-21934 of 2021
Date of decision:08.07.2021

Kuldeep ... Petitioner

Vs.

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Sanchit Punia, 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.

The petitioner is seeking regular bail in case FIR No.46 dated 04.03.2020 registered under Sections 21(b) and 27-A of [Narcotic Drugs and Psychotropic Substances Act, 1985](#) (for short “NDPS Act”) registered at Police Station Sadar Rattia, District Fatehabad.

As per the version of the prosecution, on a chance inspection of vehicle, recovery of 7.50 grams of heroin was effected from Deepak Kumar and Tarsem @ Semi. The petitioner has been named by the co-accused in their disclosure statement, wherein, they claimed that the contraband had been purchased from the petitioner, who was arrested on 10.01.2021.

Counsel for the petitioner has urged that the recovery from the co-accused falls within the scope of intermediate quantity as per the notification issued under the provisions of NDPS Act. He submits that there is no recovery from the petitioner and the disclosure statement on the basis of which he has been arraigned, is inadmissible in evidence. By referring to para 11 of the petition, he submits that though the petitioner is involved in two other cases registered under the NDPS Act but he is on bail in both and in the third case, registered against him under Sections 323, 427, 452 and 506 of Indian Penal Code, 1860, he has been acquitted, vide judgment dated 03.11.2018. He has placed reliance on orders dated 03.04.2020 and 12.04.2020, Annexures P-4 and P-5, respectively, whereby, co-accused have been released on regular bail by the trial Court.

Per contra, State Counsel upon instructions from ASI Jitender Singh, has opposed the petition on the ground that the petitioner is a habitual offender and this is the third case registered against him under the provisions of NDPS Act. However, he is not in a position to dispute that no recovery has been effected from the petitioner. As per his instructions, challan has been presented on 18.02.2021, though the charge is yet to be framed.

Having considered the arguments addressed by counsel for the parties, this Court is of the opinion that case of the petitioner is on a better footing than that of co-accused, who have been released on regular bail, vide orders, Annexures P-4 and P-5. The recovery effected from them is non-commercial.

Keeping in view the above facts and circumstances, period of incarceration of the petitioner, nature of allegation, 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 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 concerned trial Court/Duty Magistrate.

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

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

(SUVIR SEHGAL)
JUDGE

July 08, 2021
savita

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes