

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

Sr. No.217

CRM-M-19050-2020

Date of decision: 23.03.2021

Sahil

.....Petitioner

Versus

Union of India

....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Prateek Sodhi, Advocate
for the petitioner.

Ms. Sharmila Sharma, Advocate
for the respondent-NCB.

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DEEPAK SIBAL, J. (Oral)

The matter has been taken up through video conferencing.

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail in NCB Crime No.15/2019 dated 27.03.2019 registered under Sections 8/20/29/60 of the of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short – the NDPS Act).

The petitioner is being prosecuted for having been found in illegal possession of 1.8 kgs of charas.

Learned counsel for the petitioner submits that the petitioner is a 24 years old young man who has been falsely implicated in the case; the petitioner has been in custody since 27.03.2019; there is no other criminal case pending against the petitioner; the report under Section 173 Cr.P.C. has already been filed and therefore, the petitioner is not in a position to influence the investigation; even if the case of the prosecution is taken as the gospel truth, though vehemently denied, THC level of the substance allegedly recovered from the petitioner is 4.2% as per which the alleged substance recovered from the petitioner would not fall under the definition of “narcotics” and that since none of the 11 witnesses cited by the prosecution have been examined the petitioner's trial is not likely to conclude in the near future.

Learned counsel appearing for the respondent-Bureau opposes the grant of bail to the petitioner on the ground that the petitioner has been found in illegal possession of 1.8 kgs of charas and if released on bail he may indulge in similar offences.

The fact as to whether the substance recovered from the petitioner would fall under the definition of “narcotics” as defined under the NDPS Act would be considered during the petitioner's trial. However, the petitioner, who is a 24 years old young man has been in custody for the last about 02 years; there is no other criminal case in which he is involved; the report under Section 173 Cr.P.C. has already been filed and therefore, the petitioner is not in a position to influence the investigation and that so far since none of the 11 prosecution witnesses have been examined, the petitioner's trial is not likely to conclude in the near future especially in the present circumstances when the world is facing the Covid-19 pandemic.

Keeping in view the totality of the above facts, the present case is considered to be a fit one in which the petitioner be directed to be released on regular bail. Resultantly, subject to the satisfaction of the CJM/Duty Magistrate, Jalandhar, the petitioner is directed to be released on bail.

It is clarified that the above observations have been made only for the limited purpose of deciding the present regular bail application and the same would not be construed to be an expression of opinion on the merits of the case.

March 23, 2021
Jyoti 1

(DEEPAK SIBAL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No