

CRM-M-26781-2021

Date of Decision: 29.09.2021.

Daler Singh

...Petitioner

vs.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice B.S. Walia.

Present: Mr. P.S. Sekhon, Advocate for the petitioner.

Mr. Naveen Kumar Sheoran, DAG, Haryana.

B.S. Walia, J. (Oral)

1. Prayer in the petition under Section 439 Cr.P.C. is for grant of regular bail to the petitioner during the pendency of the trial in case FIR No.166 dated 04.04.2021, registered under Sections 15-A and 18-C, NDPS Act, 1985, at Police Station Pundri, District Kaithal.
2. Learned counsel contends that 900 grams of poppy husk was recovered from the petitioner while 60 grams of opium was recovered from his son i.e. co-accused, Karandeep Singh on their personal search, no independent witness was joined during search and seizure of contraband, investigation is complete, and although charge sheet has been filed, but the same is without the report of the FSL despite lapse of the statutory period of filing of complete charge sheet, the petitioner is behind bars since 04.04.2021, maximum sentence of imprisonment which can be imposed on the petitioner in the case of conviction under Section 15-A NDPS Act, is upto one year with fine while in case of conviction under Section 18-C of the NDPS Act for unauthorized possession of opium which was recovered from co-accused, Karandeep Singh, imprisonment is upto 10 years,

co-accused, Karandeep Singh, has been released on regular bail, therefore, no useful purpose would be served by keeping the petitioner behind bars as he has already spent more than 5 months in custody.

3. Learned DAG, Haryana, on the other hand, contends that the petitioner is involved in five other cases and the instant case was registered while the petitioner was on parole, therefore, is not entitled to be released on bail.

4. I have considered the submissions of learned counsel for the parties.

5. Admittedly, the petitioner is accused of an offence under Section 15-A NDPS Act, which prescribes maximum imprisonment upto one year with fine, the petitioner is in custody since 04.04.2021 and as on date has been behind bars for 5 months and 24 days, challan has been presented, though charges are yet to be framed, there are 13 prosecution witnesses, co accused has been released on regular bail, trial is likely to take time, therefore, no useful purpose would be served by keeping the petitioner behind bars. Accordingly, the petition for regular bail is allowed and the petitioner ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of the learned trial Court / Chief Judicial Magistrate / Illaqa Magistrate provided he is not required in any other case. The petitioner shall abide by the conditions contained in Section 437(3) Cr.P.C. It is also made clear that in case the petitioner is involved in any other case while he is on bail in the instant case, the prosecution would be at liberty to move an application for cancellation of bail granted in the instant

6. However, nothing stated hereinabove shall be construed as an expression of opinion on the merits of the case.

7. Petition allowed in the aforementioned terms.

(B.S. Walia)
Judge

29.09.2021

'rajesh-seema'

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