

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

211 (3)

CRM-M-25514-2020

Date of decision: 05.08.2021

PARMINDER DASS @ DHARMINDER DASS

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Yashpal Thakur, 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 (first) petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.91 dated 03.06.2020 registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "the NDPS Act") at Police Station Longowal, District Sangrur to which Section 29 of the NDPS Act was added later on.

Briefly stated the case of the prosecution is that on 03.06.2020, the police party headed by ASI Yadwinder Singh apprehended co-accused Gurvinder Singh @ Rimpa, Manpreet Singh @ Soni @ Pappu and Balram Singh @ Ballu pursuant to registration of FIR on the basis of secret information and on search as per prescribed procedure recovered 100 Buprenorphine injections each from conscious

possession of each of them. The police investigated the case and during investigation the above said co-accused made disclosure statement implicating the petitioner as the person who had supplied the above said contraband to them. On completion of investigation the petitioner was charge sheeted by the police along with other co-accused.

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

Custody Certificate has been filed by learned State Counsel through e-mail, print out of which is taken on record.

The petition has been opposed by the learned State counsel in terms of reply by way of affidavit of Dr. Mehtab Singh, IPS, Assistant Superintendent of Police, Sub Division Sunam, District Sangrur.

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 present case. The petitioner was not apprehended on the spot and no recovery was made from the petitioner. The petitioner has been falsely implicated on the basis of disclosure statement made by the co-accused. The petitioner was not connected with the co-accused in any manner and was not involved in commission of the alleged offences. There is no cogent evidence other than the disclosure statement of the co-accused as to petitioner having supplied contraband to them. Rigors of Section 37(1)(b) of the NDPS Act are not applicable qua the petitioner. The petitioner was falsely

implicated in one more case under the NDPS Act on allegations of recovery of non-commercial quantity of contraband in which the petitioner is on bail. The trial is likely to take long time due to restrictions imposed to prevent the spread of Covid-19 and no useful purpose will be served by further detention of the petitioner in custody during trial. Therefore, the petitioner may be granted regular bail.

On the other hand, learned State Counsel has submitted that the petitioner is a habitual offender and is involved in one more case under the NDPS Act. Rigors of Section 37(1)(b) of the NDPS Act are applicable to him. In view of his antecedents, nature of accusation and gravity of offence, the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

Keeping in view the facts and circumstances of the case, nature of accusation and evidence against the petitioner, the fact that no recovery was effected from the petitioner who has been implicated on the basis of disclosure statement of the co-accused, consequent in-applicability of the rigors of Section 37(1)(b) of the NDPS Act qua the petitioner and also the fact that the trial is likely to take long time due to restrictions imposed to prevent the spread of infection of Covid-19, but without commenting on the merits of the case, 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 trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

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.

05.08.2021

Vishal

(ARUN KUMAR TYAGI)
JUDGE

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