

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

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**CRM-M-34696-2020
Date of Decision: 25.01.2021**

Mohammad Salman ... Petitioner
Versus

State of U.T. Chandigarh ...Respondent

CORAM : Hon'ble Mr. Justice Arun Kumar Tyagi

Present : Mr. Amit Bhanot, Advocate
for the petitioner.

Mr. A.M. Punchhi, Public Prosecutor with
Mr. Anupam Bansal, Additional Public Prosecutor
for U.T. Chandigarh.

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 short, “the Cr.P.C.”) for grant of regular bail in case FIR No. 0155 dated 30.07.2020 registered under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, “the NDPS Act”) at Police Station Sector 34, Chandigarh.

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

The petition has been opposed by the learned State Counsel. However, no reply has been filed by the respondent-State.

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 case. No independent witness was joined at the time of alleged recovery. The mandatory provisions of the NDPS Act were not complied with. The quantity of the contraband allegedly recovered from possession of the petitioner falls in the category of non commercial quantity. Rigors of Section 37(1)(b) of the NDPS Act are not applicable in the present case. The petitioner is not involved in any other case under the NDPS Act. The trial is likely to take long time 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 in view of the nature of accusation and gravity of offence, the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

However, learned State counsel has conceded that the petitioner is not involved in any other case under the NDPS Act.

Keeping in view the facts and circumstances of the case- nature of accusation against the petitioner, the fact that alleged recovery of 10 kgs of ganja from his possession falls in the category of non-commercial quantity, the period of custody of the petitioner and also the fact that the trial is likely to take long time due to restrictions imposed to prevent spread 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.

Accordingly, 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 offence by him under the NDPS Act after his release on bail, his bail in the present case shall also be liable to be cancelled on application to be filed in this regard.

25.01.2021

Vishal

(ARUN KUMAR TYAGI)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No