

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

(Sr. No. 224)

CRM-M No. 40035 of 2021 (O&M)

Date of decision : 01.11.2021

Ishu @ Nadeem Ahmed

.....Petitioner

Versus

State of U.T., Chandigarh

.....Respondent

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL

Present : Mr. Bhupinder Ghai, Advocate for the petitioner.

Mr. Abhinav Gupta, Addl. P.P., U.T., Chandigarh.

* * *

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 FIR No.0114 dated 26.08.2021 registered under Sections 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short – the NDPS Act) at Police Station West Sector-11, Chandigarh.

The petitioner is being prosecuted for having been found in illegal possession of 5.03 grams smack.

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in this case; he is in custody since 26.08.2021; the petitioner is not involved in any other criminal case; investigation in the case is complete and therefore the petitioner is not in a position to influence the same; even if the case of the prosecution is taken as the gospel truth, though vehemently denied, the alleged recovery from the petitioner is .03

grams more than 5 grams which is classified “small quantity” under the NDPS Act; no further recovery is required to be made from the petitioner and that the petitioner's trial, which is yet to commence, will take a long time to conclude.

Learned counsel for the U.T. Administration opposes the grant of bail to the petitioner on the ground that if he is released on bail he may indulge in similar offences.

The petitioner who is a young man aged 25 years is in custody since 26.08.2021; he is not involved in any other criminal case; investigation in the matter is complete and therefore he is not in a position to influence the investigation; the alleged recovery from the petitioner is .03 grams more than the prescribed “small quantity” under the NDPS Act and that petitioner's trial which is yet to commence is likely to take a long time to conclude.

In view of the above, 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, Chandigarh 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.

01.11.2021*sunil yadav***(DEEPAK SIBAL)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No