

Anwar Ali

.... Petitioner

Versus

State of Haryana

..... Respondent

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

Present: Mr. Vinod Bhardwaj, Advocate for the petitioner.

Ms. Upasana Dhawan, AAG, Haryana.

B.S. Walia, J. (Oral)**CRM-43984-2021**

Application is allowed as prayed for.

Annexures P-4 and P-5 are taken on record.

CRM-M-41044-2021

1. Prayer in the petition under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.08 dated 12.01.2021 registered under Sections 15B, 29-61 NDPS Act, 1985 at Police Station Rajound, District Kaithal.

2. Learned counsel contends that the petition for regular bail was dismissed by the learned Special Judge, Kaithal vide order Annexure P-3 dated 12.03.2021 whereafter the petitioner filed CRM-M-16076 of 2021 but on account of grant of regular bail to similarly situated co-accused by the learned trial Court vide order Annexure P-2 the petitioner filed a subsequent petition before the learned trial Court. However, on legal advice the petitioner withdrew CRM-M-16076 of 2021 on 15.09.2021. However, on 17.09.2021 the subsequent petition for regular

bail filed by the petitioner before the learned trial Court was also got dismissed as withdrawn in view of objection having been raised before the learned trial Court that the petitioner had already approached the High Court. Learned counsel further contends that the petitioner has been in custody since 12.01.2021, recovery is only 10.5 kg. of *doda post* which is a non-commercial quantity, challan has been presented, charges have been framed and out of 11 prosecution witnesses only one prosecution witness has been examined. Learned counsel further contends that similarly situated co-accused namely Pawan Kumar has already been granted regular bail by the learned Special Judge, Kaithal vide order Annexure P-2. Learned counsel contends that in the circumstances, the trial would take considerable period of time, therefore no useful purpose would be served by retaining the petitioner in custody.

3. Per contra, learned State counsel contends that the petitioner is a habitual offender and one more case under the NDPS Act involving recovery of 20 kg. of *doda post* stands registered against him, besides, the co-accused was granted bail vide order Annexure P-2 by taking into account the fact that his involvement was only on the basis of disclosure statement made by the petitioner herein, besides he has clean antecedents and no other case was registered against him.

4. I have considered the submissions made by learned counsel for the parties.

5. Admittedly, the petitioner is in custody since 12.01.2021, recovery which has been effected from him, is of non-commercial quantity of 10.5 kg of *doda post* and even if the recovery in the other

case registered against the petitioner is taken into account, still the total recovery works out to 30.5 kg of *doda post* which again works out to non-commercial quantity, challan has been presented, charges have been framed and out of 11 witnesses only one prosecution witness has been examined, therefore the trial is likely to take considerable period of time.

6. Accordingly, in the light of position noted above, the petition for regular bail is allowed and the petitioner is ordered to be released on regular bail during the pendency of the trial, subject to his furnishing bail / surety bonds to the satisfaction of the learned CJM / Trial Court / Duty Magistrate, concerned, provided he is not required in any other case. It is also made clear that the petitioner shall appear before the learned trial Court on each and every date and shall also abide by the conditions contained in Section 437 (3) Cr.P.C., however, nothing stated hereinabove shall be construed to be an expression of opinion on the merits of the case.

7. Further while taking into account the fact that one more case stands registered against the petitioner, while allowing the instant petition for regular bail, it is made clear that in case of violation of any of the conditions for grant of bail or involvement of the petitioner in any other case while he is on regular bail in the instant case, the prosecution would be at liberty to move an application for cancellation of bail granted to the petitioner in the instant case.

8. Petition allowed in the aforementioned terms.

(B.S. Walia)
Judge

22.12.2021
Manju/PS

1. Whether speaking/reasoned: Yes/No.
2. Whether reportable: Yes/No.