

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

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**CRM-M-38250-2020
Date of Decision : 12.01.2021**

Kamaljeet

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

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

Mr. Ranvir Singh Arya, Addl. A.G., Haryana
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 petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.216 dated 22.09.2020 registered under Section 22(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') in Police Station Sadar Tohana, District Fatehabad to which Section 27A of the NDPS Act was added lateron.

As per the prosecution version on 22.09.2020 the police party headed by ASI Kapil Dev apprehended co-accused Harjinder Singh @ Gora on the basis of secret information by conducting nakabandi and on search recovered 180 strips containing 10 tablets each of Alprazolam weighing 253.8 grams and 150 strips containing 10 tablets each of Tramadol Hydrochloride weighing 492 grams. During investigation co-accused Harjinder Singh @ Gora made statement that he had purchased the recovered contraband/medicines from the petitioner.

The petition has been opposed by the respondent-State in terms of reply filed by way of affidavit of Sh. Daljeet Singh, HPS, Deputy Superintendent of Police, City, Fatehabad, District Fatehabad.

I have heard learned Counsel for the petitioner and learned State Counsel and gone through the relevant record.

Learned Counsel for the petitioner has argued that the petitioner was not named in the FIR. The petitioner was not arrested on the spot and no recovery was made from his possession. The petitioner has been implicated in the case on the basis of disclosure statement of co-accused Harinder Singh @ Gora as supplier of the contraband/medicines recovered from his possession. The disclosure statement of co-accused is not of any evidentiary value as there is no corroborative evidence as to involvement of the petitioner in the crime. The petitioner was falsely involved in one more case under the NDPS Act but he is on bail in that case. The petitioner is in custody since 24.09.2020. Trial is likely to take long time due to restrictions imposed to prevent spread of infection of Covid-19 and no useful purpose will be served by keeping the petitioner in custody. Therefore, the petitioner may be ordered to be released on regular bail.

On the other hand, learned State Counsel has argued that the petitioner was a supplier of a huge quantity of the contraband/medicines recovered from the possession of co-accused Harjinder Singh @ Gora. The petitioner is also involved in one more case under the NDPS Act. In view of nature of accusation and gravity of offences, the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

The petitioner is alleged to be involved in one more case under the NDPS Act on the basis of disclosure statement as to the petitioner being supplier of the contraband. The petitioner is on bail in that case. In the present case also the petitioner was arrayed on the disclosure statement of co-accused. The evidentiary value of such disclosure statement is under challenge.

Keeping in view the facts and circumstances of the case, particularly that the petitioner was not apprehended on the spot, no recovery was made from him, there is no evidence against him except the disclosure statement of his co-accused, rigors of Section 37(1)(b) of the NDPS Act are not applicable qua the petitioner/stand satisfied by due implication, challan is yet to be filed and trial is likely to take long

time due to restrictions imposed to prevent 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.

Therefore, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of bail bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

12.01.2021

Kothiyal

(ARUN KUMAR TYAGI)
JUDGE

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