

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

210

CRM-M-43768-2020

Date of decision: 09.07.2021

Sukhbir Singh

.....Petitioner

Versus

State of U.T. Chandigarh

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Ms. Shalini Atri, Advocate
for the petitioner.

Mr. Ashu Mohan Punchhi, Public Prosecutor with
Mr. Anupam Bansal, Addl. Public Prosecutor
for the respondent-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.187 dated 17.09.2020 registered under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "the NDPS Act") at Police Station Sector 34, Chandigarh.

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

The petition has been opposed by the respondent-U.T., Chandigarh in terms of affidavit of Dr. Rashmi Sharma Yadav, Deputy Superintendent of Police (Operations), Sector-26, Chandigarh filed in the Registry of this Court which is taken on record.

Custody certificate has been filed by the learned Public

Prosecutor through e-mail print out of which is taken on record.

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

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case. As per the allegations, recovery of 35 grams of heroin was allegedly made from the petitioner which falls in the category of non-commercial quantity. The petitioner was involved in 17 other criminal cases earlier but he has been acquitted or undergone the sentence except in three cases which are now pending in which he is on bail. Rigors of Section 37(1)(b) of the NDPS Act are not applicable to the case. 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 has submitted that the petitioner is a habitual offender and was involved in 17 other criminal cases. 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.

As per custody certificate the petitioner is in custody in the present case for the last 09 months and 21 days. In the custody certificate three cases FIR No.289 dated 12.08.2018 under Section 21 of the NDPS Act and DDR No.75 dated 23.02.2005 and DDR No.78 dated 20.11.2004 both under Sections 41.2 and 109 of the Cr.P.C. are stated to be pending against the petitioner.

Keeping in view the facts and circumstances of the case, nature of accusation and evidence against the petitioner, the fact that the quantity of the contraband allegedly recovered from his possession falls under the category of non-commercial quantity and rigors of Section 37(1)(b) of the NDPS Act are not applicable 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.

09.07.2021

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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