

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

108

**CRM-M-43024-2020
Date of decision: 06.08.2021**

Rohtash Kumar

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Navneet Jindal, Advocate
for the petitioner.

Mr. Sumit Jain, 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.652 dated 24.10.2020 registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act') at Police Station City Sirsa, District Sirsa.

Briefly stated, case of the prosecution against the petitioner is that on 24.10.2020 police party headed by ASI Ashok Kumar was on patrolling duty. When the police party reached near Sunrize Dairy Gali No.2, Mela Ground Begu Road, Sirsa they saw the petitioner, coming on motorcycle while hanging a black coloured polythene on its right handle. On seeing the police party he tried to turn his motorcycle and fell down. The police apprehended him and on search as per prescribed procedure 20 strips of Parvorin-Spas (Ridley) 100 mg. of Tramadol Hydrochloride, Diclofenac Sodium, Dicyclomine Hydrochloride and Chlorpheniramine Maleate each containing 10 capsules totaling 200 capsules were recovered from the bag hung on the handle of the motorcycle.

The petitioner being in custody since 24.10.2020 has filed

the present petition for grant of regular bail.

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

Custody certificate has been filed by learned State Counsel through e-mail print out of which is taken on record.

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 has been falsely implicated in the case. Mandatory provisions of the NDPS Act were not complied with. The contraband allegedly recovered falls in the category of non-commercial quantity and rigors of Section 37(1)(b) of the NDPS are not applicable. The petitioner is not involved in any other case under the NDPS Act. Trial is likely to take long time and no useful purpose will be served by his further detention in custody. Therefore, the petitioner may be ordered to be released on bail.

On the other hand, learned State Counsel has argued that the petitioner kept in his conscious possession intoxicant tablets containing Tramadol Hydrochloride. The petitioner does not deserve the concession of regular bail. Therefore, the petition may be dismissed.

However, learned State Counsel has submitted that the contraband allegedly recovered does not fall in the category of commercial quantity and that the petitioner is not involved in any other case under the NDPS Act.

In view of the facts and circumstances of the case, nature of accusation and evidence against the petitioner, the period of his custody, the fact that the contraband allegedly recovered falls in the category of non-commercial quantity and rigors of Section 37(1)(b) of the NDPS Act are not applicable, the petitioner is not involved in any other case under the NDPS Act 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 of the considered view that the petitioner deserves the concession of regular bail.

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/Duty Magistrate/Chief Judicial Magistrate concerned.

However, bail is granted to the petitioner subject to the condition that he will not commit any offence under the NDPS Act after his release on bail and in case of involvement of the petitioner in commission of any offence under the NDPS Act in future, his bail in the present case shall also be liable to be cancelled on application to be filed in this regard.

06.08.2021

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(ARUN KUMAR TYAGI)
JUDGE

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