

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

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**CRM-M-43344-2020
Date of Decision : 05.02.2021**

Saurabh Sharma

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Ms. Harpreet Kaur Arora, Advocate
for the petitioner.

Mr. Rupinder Singh Jhand, 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.208 dated 21.10.2020 registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') in Police Station Babain, District Kurukshetra to which Section 29 of the NDPS Act was added lateron.

As per the prosecution version on 21.10.2020 on the basis of secret information the police party headed by ASI Jasbir Singh apprehended the petitioner in his residence and on search, in the presence of SI Balbir Dutt and Harish Kalra, Tehsildar, Ladwa, recovery of 500 tablets Rx Diphenoxylate Hydrochloride and Tropine Sulphate Tablets USP Microlit Micron was made from his possession which was kept by the petitioner without any permit or license.

The petitioner being in custody since 21.10.2020 has filed the present petition for grant of regular bai;.

The petition has been opposed by the respondent-State in terms of reply filed by way of affidavit of Sh. Bharat Bhushan, HPS DSP, Ladwa, Kurukshetra.

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. The alleged recovery has been planted on the petitioner. Mandatory provisions of NDPS Act were not complied with. No independent witness was joined at the time of alleged recovery. The contraband recovered falls in the category of non-commercial quantity. Rigors of Section 37(1)(b) of the NDPS are not applicable in the present case. The petitioner is not involved in any other case under the NDPS Act. 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 land, learned State Counsel has argued that the petitioner was apprehended with huge quantity of the contraband. 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.

Keeping in view the facts and circumstances of the case, nature of accusation against the petitioner, rigors of Section 37(1)(b) of the NDPS Act not being applicable, the fact that the petitioner is not

involved in any other case under the NDPS Act and also that the trial is likely to take long time due to restrictions imposed to prevent spread of infection of Covid-19 but without commenting on 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 bail 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 the petitioner shall not commit any offence under the NDPS Act after his release on bail and in case of commission of any offence under the NDPS Act by him in future his bail in the present case shall also be liable to be cancelled on application to be filed in this regard.

05.02.2021

Kothiyal

(ARUN KUMAR TYAGI)
JUDGE

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