

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

205

CRM-M-54480-2019

Date of decision: 03.03.2021

Naved Najam

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Sandeep Kotla, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana
for the respondent-State.

ARUN KUMAR TYAGI, J (ORAL)

The petitioner has filed the present (first) petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.354 dated 23.11.2019 registered under Sections 22(c), 27-A and 61 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "the NDPS Act") at Police Station City Ratia, District Fatehabad.

As per the prosecution version, the police party headed by ASI Surender Singh apprehended Satish Kumar on the basis of secret information and recovered 16 bottles of Wincirex containing codeine and chlorphineramine total contraband substance weighing 1 Kg. 952 gms. falling in the category of commercial quantity. During investigation, Satish Kumar made disclosure statement that he purchased 20 bottles from G.B. Road, Delhi and again made disclosure statement implicating the petitioner to be the person from whom he purchased the contraband.

The petitioner, who is in custody since 25.11.2019, has

filed the present petition for grant of regular bail.

The petition has been opposed by the learned State Counsel in terms of reply filed by way of affidavit of Subhash Chander, HPS, Deputy Superintendent of Police, HQ, Fatehabad in the Registry of this Court 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 submitted that the petitioner has been falsely implicated in the case on the basis of disclosure statement of co-accused Satish. The petitioner has nothing to do with the alleged recovery. Rigors of Section 37(1)(b) of the NDPS Act are not applicable qua the petitioner. The petitioner is not involved in any other case under the NDPS Act. 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 Counsel has submitted that the petitioner is accused of having kept commercial quantity of the contraband in his conscious possession and to have thereby committed serious offence. In view of nature of accusation, gravity of the offences and quantum of sentence which the conviction may entail, 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 and evidence against the petitioner who has been

implicated in the present case on the basis of disclosure statement of the co-accused, the petitioner not being involved in any other case under the NDPS Act, satisfaction by due implication of rigors of Section 37(1)(b) of the NDPS Act and 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.

03.03.2021

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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