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

**CRM-M-6129-2022 (O&M)
Date of Decision: 15.03.2022**

Aakash @ Kaashi

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Hitesh Chopra, Advocate,
for the petitioner.

Mr. Navdeep Chhabra, DAG, Punjab.

(Through Video Conference)

HARSIMRAN SINGH SETHI J. (ORAL)

CRM-5000-2022:

Allowed as prayed for, subject to all just exceptions.

CRM-M-6129-2022:

The present petition has been filed for grant of regular bail in FIR No.1, dated 02.01.2021, under Sections 21/25/59 of the NDPS Act and Section 25 of the Arms Act, registered at Police Station S.T.F., SAS Nagar, Mohali.

Learned counsel for the petitioner argues that the recovery which has been effected from the petitioner is of 258 gms. of *heroin*, when weighed along with the carry-bag, therefore, the quantity of the contraband being attributed to the petitioner is a debatable point that whether the same is of commercial in nature or not. Learned counsel submits that according to the petitioner, the quantity recovered from him is not commercial in nature and the same would not invite the rigors of Section 37 of the NDPS Act.

Learned counsel also submits that the petitioner is behind the bars for the last more than one year. Learned counsel for the petitioner further submits that in the similar circumstances, the co-accused, namely Jaspal Singh @ Judge, has already been extended the concession of regular bail by this Court while passing the order in CRM-M-30565-2021 on 15.12.2021, therefore, he may kindly be extended the concession of regular bail on the ground of parity, especially in view of the fact that the trial is likely to take some time to conclude due to the restrictive working of the Courts in view of Covid-19 pandemic.

Learned State counsel does not dispute the fact that the contraband (*heroin*) in question was weighed along with the carry-bag and weight of the same came out to be 258 gms. Learned State counsel further concedes that the allegations alleged against the petitioner and that of the co-accused, namely Jaspal Singh @ Judge, are similar in nature as the contraband recovered from the said co-accused was also weighed along with the carry-bag, which was declared as marginally above the commercial quantity, and the said co-accused, namely Jaspal Singh @ Judge, has already been granted the concession of regular bail by this Court.

I have learned counsel for the parties and have gone through the record with their able assistance.

It is a conceded position that the contraband (*heroin*) recovered from the petitioner was weighed along with the carry-bag so as to declare the weight of the same as 258 gms. Under these circumstances, the total quantity of the contraband recovered from the petitioner becomes debatable as to whether the same is commercial in nature or not. Said fact can only be ascertained keeping in view the evidence which will be adduced during the

trial. Further, once a similarly situated co-accused, namely Jaspal Singh @ Judge, from whom 255 gms. of *heroin* was recovered and the same was also weighed along with the carry-bag, has already been granted the concession of regular bail by this Court, the petitioner has made out a case for the grant of regular bail on the ground of parity itself, coupled with the fact that the trial is likely to take some time to conclude due to the restrictive working of the Courts in view of Covid-19 pandemic, and especially in view of the fact that learned counsel for the petitioner has undertaken before this Court that the petitioner will maintain good conduct and will not influence the trial or the witnesses in any manner, in case his prayer for the grant of regular bail is accepted.

In view of the above and without commenting upon the merits of the case, it is directed that the petitioner be released on regular bail, subject to the satisfaction of the trial Court/Duty Magistrate concerned.

However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

15.03.2022

Apurva

(HARSIMRAN SINGH SETHI)

JUDGE

1. Whether speaking/reasoned : Yes
2. Whether reportable : Yes