

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-5379 of 2022
Date of decision:05.05.2022

Sonu

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Arjinder Singh Sidhu, Advocate
for the petitioner.

Ms. Deepshikha Chauhan, AAG, Haryana.

SUVIR SEHGAL, J. (Oral)

This is the second petition filed under Section 439 Cr.P.C. seeking grant of regular bail to the petitioner in case FIR No.197 dated 16.09.2021 registered under Section 21(c) of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “NDPS Act”) at Police Station Sadar Tohana, District Fatehabad (Annexure P-1).

Version of the prosecution is that the police party apprehended Sonu, present petitioner and co-accused, Vikram alias Vicky, who were travelling on a motorcycle and recovery of 265 grams of heroin was effected from them. On a confessional statement of the accused, Alok @ Loki and Devender were arrested.

Counsel for the petitioner contends that recovery individually effected from the petitioner is 150 grams of heroin, which does not fall

within the ambit of commercial quantity as per the notification issued under the NDPS Act. He submits that challan has been presented, charge has been framed and the petitioner, who is in custody since 16.09.2021, is no longer required for custodial interrogation. Still further, he submits that first petition (CRM-M-54704 of 2021), preferred by the petitioner was disposed of by this Court, vide order dated 31.12.2021 and the petitioner was ordered to be taken to the venue of the marriage ceremony of his siblings.

Per contra, State counsel upon instructions from ASI Karnail Singh, has opposed the petition and submitted that collective recovery from both the accused is commercial. It is her argument that the petitioner does not enjoy a clean past as there is another case pending against him for offences under Indian Penal Code, 1860.

Having considered the submissions made by counsel for the parties, keeping in view the period of custody as well as the fact that the recovery from the petitioner falls within the category of intermediate quantity and that the trial is likely to take time to conclude as no prosecution witness has been examined, this Court is of the opinion that the petitioner is entitled to be released on bail.

Without delving into the merits or demerits of the arguments addressed by counsel for the parties, the petition is allowed and the petitioner is ordered to be released on bail on furnishing **heavy bail/surety bonds** to the satisfaction of the Trial Court/Duty Magistrate concerned.

While being released on bail, the petitioner shall furnish an undertaking to the effect that henceforth, he will not get involved in any criminal activity. In case, he violates the undertaking, the State will be at liberty to seek cancellation of the bail.

It is clarified that any observation made hereinabove shall not be construed to be a reflection of opinion on the merits of the case.

May 05, 2022
savita

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes