

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

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**CRM-M-6333-2022 (O&M)
Date of decision: 18.07.2022**

SONU ALIAS BACHI

....Petitioner(s)

Versus

STATE OF HARYANA

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present : Mr. Vikas Bishnoi Godara, Advocate
for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG Haryana.

VINOD S. BHARDWAJ. J. (ORAL)

The instant petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.450 dated 12.11.2019 under Sections 21-B/27-A of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereafter referred to as 'NDPS Act') registered at Police Station Sadar, Fatehabad.

Learned counsel for the petitioner submits that even though 39 other criminal cases have been registered against the petitioner, however, there is no case registered under the NDPS Act and as such it is very unlikely that the petitioner would have indulged in commission of any such offence. He further contends that it is a case of chance recovery from the co-accused Ajay @ Binny and Rahul (10 grams each) and that the name of the petitioner had figured only in the disclosure statement of the said co-accused, wherein it was alleged that they had purchased the recovered contraband from the petitioner and the co-accused Sukhbir Singh. He further contends that the petitioner was thereafter arrested and despite his custodial detention, no recovery has been effected at the

disclosure/identification of the petitioner. He contends that the petitioner has been nominated as an accused only because of his involvement in other criminal cases wherein he is on bail in all such cases that are pending trial except for one. It has been argued that the aforesaid involvement in the other cases, which do not reflect participation of the petitioner in commission of offence punishable under the NDPS Act, would rather be a corroborative circumstance in relation to the false implication of the petitioner.

A reference is also made to the judgment of the Hon'ble Supreme Court passed in Criminal Appeal No.923 of 2022 titled as State of West Bengal Vs. Rakesh Singh @ Rakesh Kumar Singh decided on 11.07.2020 wherein the judgment of bail in favour of the accused despite 53 other cases having been registered against him was affirmed since there was no other case under the NDPS Act.

It is also pointed out that the petitioner is in custody since 02.02.2021 and he has already undergone an actual custody of more than 01 year 04 months and it is submitted that the recovered quantity effected from the co-accused was non-commercial and that the trial is still at initial stage as out of 18 witnesses only 13 have been examined so far and that the trial is not likely to conclude soon.

Learned State counsel further contends that the petitioner suffers from criminal antecedents and that he does not deserve the concession of bail. He, however, is not able to dispel the fact that insofar as other cases are concerned, none of them relate to the offence punishable under the NDPS Act and that even in the present case, the recovery of 20 grams of heroine (10 grams each) was effected from the co-accused and not from the petitioner and that despite custodial detention of the petitioner, there has been no seizure at the instance of the

petitioner. Furthermore, the ratio of the judgment of the Hon'ble Supreme Court in the matter of Rakesh Singh's case (supra) has also not been denied.

I have heard learned counsel for the parties and have perused the material on record.

Taking into consideration the period of custody and the fact that no recovery has been effected from the petitioner and the case has yet not culminated into finalization, I deem it appropriate to enlarge the petitioner on bail.

Accordingly, the present petition is allowed and the petitioner is admitted to regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of Trial Court/Duty Magistrate, concerned.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

The observation made hereinabove shall not be construed as an expression on the merits of the case and the Trial Court shall decide the case on the basis of available material.

(VINOD S. BHARDWAJ)
JUDGE

July 18, 2022

S.Sharma(syr)

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