

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

209

CRM-M-9437-2022
Decided on : 10.03.2022

Nischay and another

. . . Petitioners

Versus

State of Haryana

. . . Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

(Through Video Conferencing)

PRESENT: Mr. V. C. Shukla, Advocate and
Mr. Tarun Gulia, Advocate
for the petitioners.

Mr. Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J. (Oral)

The present petition has been filed under Section 439 Cr.P.C.
for grant of regular bail to the petitioners in case FIR No. 44 dated
03.02.2022 under Section 21 of the Narcotic Drugs and Psychotropic
Substances Act, 1985 registered at Police Station DLF, District Gurugram.

Learned counsel for the petitioners has submitted that even
as per the prosecution version, both the petitioners were going in a car
and in pursuance of secret information received, they were apprehended
by the police and thereafter, from the personal search conducted,
recovery of 13 gms. of cocaine had been effected from petitioner No. 1
and there was no recovery effected from petitioner No. 2. It is further
submitted that the alleged recovery is far less than the commercial
quantity inasmuch as the stipulated commercial quantity starts from 100

Gms. It is contended that the petitioners are not involved in any other case and have clean antecedents. It is further contended that the petitioners are in custody since 03.02.2022 and they are the sole bread winners of the family and the challan in the present case has not been filed as yet and thus, the trial is likely to take time, moreso, in view of the present COVID-19 pandemic situation.

Learned State counsel, on the other hand, has opposed the present application for regular bail and has submitted that the FIR has been registered only on 03.02.2022. However, other factual assertions made by learned counsel for the petitioners have not been disputed by learned State counsel.

Keeping in view the abovesaid facts and circumstances, moreso the fact that the alleged recovery effected from petitioner No. 1 is of 13 gms. of cocaine which is substantially less than the commercial quantity inasmuch as the stipulated commercial quantity starts from 100 gms. and there is no recovery effected from petitioner No. 2 and both the petitioners are not involved in any other criminal case and no further recovery is to be effected from the petitioners and the petitioners are in custody since 03.02.2022 and presentation of challan and the trial will take time, moreso, in view of the present COVID-19 pandemic situation, the present petition is allowed and the petitioners are ordered to be released on bail on their furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate and subject to them not being required in any other case.

However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

(VIKAS BAHL)
JUDGE

March 10th, 2022
Mehak

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