

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

216

CRM-M-11333-2022
Decided on : 23.03.2022

Ramesh

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Kawalpreet Singh Virk, Advocate
for the petitioner.

Mr. Kuldeep Tewari, Addl. AG, Haryana.

VIKAS BAHL, J. (Oral)

The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No. 451 dated 29.12.2021 under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Sadar Safidon, District Jind.

Learned counsel for the petitioner has submitted that as per the prosecution case, the alleged recovery effected from the petitioner is 37.50 gms. of smack/heroin and the said quantity is much lower than the stipulated commercial quantity which starts from 250 gms. It is further submitted that the petitioner has been in custody since 29.12.2021 and challan in the present case has already been presented and there are as many as 18 witnesses out of whom, none has been examined as yet and thus, the trial is likely to take time, moreso, in view of the present COVID-

19 pandemic situation. He has also submitted that there has also been violation of Section 50 of the NDPS Act.

Learned State counsel, on the other hand, has opposed the present application for regular bail and has submitted that the petitioner is involved in three other cases and the present FIR has been registered after he was granted anticipatory bail in FIR No. 280 dated 03.10.2020 which was also under the NDPS Act.

Learned counsel for the petitioner, in rebuttal, has submitted that out of the said three cases, the petitioner has been acquitted in one case and in the other two cases, he has been granted the concession of bail. He has further submitted that as per settled law, it is the facts of the present case which are required to be considered for the purpose of deciding the present bail application. For the said proposition, learned counsel for the petitioner has relied upon judgment dated 16.01.2012 passed by the Hon'ble Supreme Court in Criminal Appeal No.159 of 2012 titled as ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and others 2012*** (2) SCC 382 reference has been made to the relevant portion of paragraph 6 which is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

This Court has heard learned counsel for the parties and has perused the paperbook.

The alleged recovery effected from the petitioner is 37.50 gms. of smack/heroin which is much lower than the stipulated commercial quantity which starts from 250 gms. The petitioner has been in custody since 29.12.2021 and the challan in the present case has already been presented and there are as many as 18 witnesses, out of whom none has been examined, thus, the trial is likely to take time, moreso, in view of the present COVID-19 pandemic situation. Moreover, all the 18 witnesses are stated to be official witnesses and thus, the question of the petitioner influencing or threatening them, does not arise.

Keeping in view the abovesaid facts and circumstances, and also in view of the law laid down in Maulana's (*supra*) case, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate and subject to him 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 23rd, 2022
Mehak

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