

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

206

CRM-M-15278-2022

Date of Decision: 21.04.2022

Anil Mukhiya

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. H.P.S.Rakhra, Advocate for petitioner.

Mr. Rana Harjasdeep Singh, Deputy Advocate General, Punjab.

Lalit Batra, J.(Oral)

Present third petition under Section 439 Cr.P.C has been moved by petitioner-**Anil Mukhiya** for grant of regular bail in case FIR No.115 dated 12.11.2019 under Sections 21, 25 and 29 of NDPS Act, registered at Police Station Special Task Force, Phase-IV, District S.A.S. Nagar (Mohali).

Learned counsel for the petitioner *inter alia* contends that allegations levelled against the petitioner are altogether false and frivolous and there is no iota of truth therein. He further submits that allegedly contraband (Heroin weighing 265 grams) was recovered from vehicle i.e. car (make Breeza) bearing registration No.HR03-8668, which was being driven by co-accused Rajinder Singh @ Goldy, whereas allegedly petitioner was sitting in the said car beside the driver. He further urges that petitioner has

no nexus whatsoever with the above said vehicle as the same was registered in the name of co-accused Parvesh Kumar and said Parvesh Kumar has already been extended concession of regular bail by this Court, vide order dated 21.09.2020 passed in CRM-M-18387-2020. He further submits that co-accused Rajinder Singh @ Goldy has already been extended concession of regular bail by this Court, vide order dated 04.04.2022 passed in CRM-M-22077-2021. He further urges that in terms of status report filed by respondent-State in CRM-M-22077-2021, as detailed above, it reveals that contraband (Heroin) allegedly recovered from petitioner was weighed inclusive of polythene bag and the weight thereof came to 265 grams. He further urges that weight of polythene bag may vary from 10 to 15 grams and in that eventuality, actual weight of contraband shown to be 265 grams may vary and as such alleged recovery of contraband would be less than 250 grams, which is “non-commercial quantity”. He further urges that sub-clause (viia) of Section 2 of NDPS Act defines the term “commercial quantity” in relation to narcotic drugs and psychotropic substances, means any quantity greater than the quantity specified by the Central Government by Notification in the Official Gazette. He further urges that in terms of Serial No.56 of the Table attached to the NDPS Act when read in consonance with sub-clause (viia) of Section 2 of NDPS Act, 'Heroin' weighing upto 250 grams is to be termed as “non-commercial quantity” and as such alleged contraband is to be categorized as “non-commercial quantity”. He further submits that petitioner is not involved in

any other case FIR except instant one. He further submits that petitioner is languishing in custody since 12.11.2019 and he is no more required by the Police for any investigation purpose as after completion of investigation, final report under Section 173 Cr.P.C. (*Challan*) has already been presented in Court. He further urges that since trial of the case would take sufficient time to conclude, no useful purpose would be served by keeping the petitioner in custody further and he may be released on bail.

On the other hand, learned State counsel while opposing instant petition has vehemently argued that keeping in view seriousness of offence, petitioner does not deserve the concession of bail.

I have heard learned counsel for the parties and have carefully gone through the contents of petition.

At this stage, without commenting anything on the merits of the case lest it may prejudice the outcome of the trial but taking into consideration the fact that petitioner is in custody since 12.11.2019; that petitioner is no more required by the Investigating Agency for investigation purpose; that *Challan* has already been presented in Court and since trial of the case would take sufficient time to conclude, no useful purpose would be served by detaining the petitioner in custody further, thus, he deserves the concession of bail.

In view of above, instant petition for grant of regular bail moved by petitioner-**Anil Mukhiya** is allowed and he is ordered to be

released on bail on his furnishing personal/surety bonds to the satisfaction of Trial Court/ Chief Judicial Magistrate/Duty Magistrate, S.A.S. Nagar (Mohali), as the case may be.

(LALIT BATRA)
JUDGE

21.04.2022
Varinder Prashad

Whether speaking/ reasoned : Yes/ No
Whether Reportable : Yes/ No