

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

**CRM-M-18828-2022 (O&M)
Reserved on: 31.10.2022
Pronounced on : 11.11.2022**

Manjeet @ Kaliya

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Sushil Sheoran, Advocate for the petitioner.

Mr. Pawan Kumar Jhanda, AAG Haryana.

HARNARESH SINGH GILL, J.

The petitioner has filed this petition under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.128 dated 18.04.2020, registered under Section 188 IPC (Section 201 IPC added later on), Section 21(c) of the NPDS Act, Sections 29 and 27-A of the NDPS Act added later on, at Police Station IMT Rohtak, District Rohtak.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case; that the petitioner has been in custody since 18.04.2020 and that there is no other pending or decided case against the petitioner under the NDPS Act; that the samples were not taken at the spot, which is mandatory as per the settled law; that as per the FIR, the alleged recovery of contraband was 2 Kg. 100 gm., but when the same produced before the learned Magistrate, it was found to be 2kg. 374 gm; that out of total recovery, 1 kg. 560 gm. is shown to be recovered from the petitioner, whereas 540 gm from co-accused Sandesh Kumar; that as far as 09 other cases against the petitioner, are concerned, he has been acquitted in 05

cases and that co-accused Sandesh Kumar has been granted bail by a Coordinate Bench, vide order dated 05.04.2022.

On the other hand, learned State counsel, while opposing the grant of bail to the petitioner, submits that the petitioner is a habitual offender, as he is involved in other cases also; that the recovery effected from the petitioner, falls under the commercial quantity and that the case of the petitioner is hit by the bar contained under Section 37 NDPS Act. However, he does not dispute the custody period of the petitioner.

I have heard the learned counsel for the parties.

As stated by learned State counsel, the intoxicating powder, allegedly recovered in the present case, fall under the category of 'commercial quantity'. Section 37 NDPS Act bars the grant of bail to the accused in case of 'commercial quantity'. The petitioner is also involved in 09 other case including the offences for the dacoity and under the POCSO Act.

Considering the same, at this stage, no justifiable ground is made out to extend the concession of regular bail to the petitioner.

Consequently, the present petition stands dismissed.

11.11.2022

Mangal Singh

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No