

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

CRM-M-20982-2022
Date of Decision:-**07.09.2022**

KAMALJIT ALIAS BACHI

... Petitioner

Versus

STATE OF HARYANA

... Respondent

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CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

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Present:- Mr. Kuldeep Singh Siwach, Advocate for
Mr. Divyam Singh Dhakla, Advocate
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

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KARAMJIT SINGH, J. (Oral)

The petitioner has approached this Court seeking grant of regular bail in a case having FIR No.374 dated 24.10.2021 registered under Sections 21(b), 27(a) of NDPS Act at Police Station Sadar Fatehabad District Fatehabad.

The counsel for the petitioner submits that the petitioner who was not named in the FIR and was later on nominated as accused on the basis of alleged disclosure made by co-accused Pargat Singh @ Ninja, was arrested in this case on 26.1.2022. The counsel for the petitioner further submits that as per record, the police arrested Pargat Singh @ Ninja on

24.10.2021 and 19 grams Heroin was recovered from the possession of the said Pargat Singh @ Ninja. That there are allegations that the present petitioner used to supply heroin to said Pargat Singh @ Ninja. The counsel further submits that during investigation of the present case, no contraband was recovered from the possession of the petitioner and the police has presented challan against him on completion of investigation. The counsel for the petitioner further submits that only one another case under the NDPS Act is pending against the petitioner, in which, he has already been granted bail.

The instant petition is contested by the State counsel, who on instructions from SI Krishan has not disputed the fact that no contraband was recovered from the present petitioner, whereas 19 grams Heroin was recovered from co-accused Pargat Singh @ Ninja. The State counsel has also not refuted the fact that the petitioner was nominated as an accused only on the basis of disclosure made by Paragat Singh @ Ninja and thereafter he was arrested and now he is in custody since last more than 7 months. State counsel further submits that petitioner has been granted bail in one another case faced by him under NDPS Act. The State counsel has also not disputed the fact that challan has been presented against the petitioner in the Court concerned.

I have considered the submissions made by counsel for the parties.

Admittedly the petitioner was not named in the FIR and was nominated as an accused on the basis of disclosure statement made by Pargat Singh @ Ninja from whom police recovered 19 grams Heroin. The

petitioner was arrested on 26.1.2022 and is presently lodged in judicial custody and, no contraband was recovered from the possession of the petitioner. The police has presented the challan after completion of investigation, but it will take time for the trial to conclude after framing of charges. The rigors of Section 37 of NDPS Act are not applicable in the present case involving 19 grams of Heroin, which comes under non-commercial quantity, as per the provisions of NDPS Act. So, no purpose is going to be served by keeping the accused behind the bars for any longer period. Thus without commenting on the merits of the case, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail and surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate concerned.

07.09.2022
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

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