

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-20935-2022

Date of decision : 25.08.2022

Abhishek Singh

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Arjun Veer Sharma, Advocate
for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR no.487 dated 09.10.2021 registered under Section 20 of the Narcotic Drugs and Psychotropic Substances, Act, 1985 (in short “NDPS Act”) at Police Station Thanesar Sadar, Kurukshetra.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 09.10.2021 and the investigation is complete and the challan has already been presented and there are 11 witnesses and since the charges have not been framed, the trial is likely to take time and the petitioner is not involved in any other case. It is further submitted that as per the prosecution version, the petitioner was admitted in the hospital due to injuries suffered by him in a road accident when from a bag recovery of 14 kgs of ganja patti was effected. It is further submitted that said recovery cannot be stated to be effected from the conscious

hospital. It is stated that it is further case of the prosecution that 6 kgs of ganja patti was also recovered from the Aactiva scooter and said Aactiva scooter does not belong to the petitioner. It is further stated that even assuming that both the alleged recoveries had been effected from the conscious possession of the petitioner, then also the same would amount to be non commercial quantity as a quantity of more than 20 kgs. of ganja patti would be commercial quantity as has been stipulated in the Act.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that the Aactiva scooter from which the recovery of 6 kgs of ganja patti has been effected i.e, 3 packets of 2 kg of ganja patti each, is owned by the petitioner and 14 kgs. of ganja patti has also been recovered from the bag that was lying close to the petitioner in the hospital premises and thus, the entire recovery of ganja patti effected from the petitioner is of 20 kgs. The other facts, however, have not been disputed.

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

The petitioner has been in custody since 09.10.2021 and the investigation is complete and the challan has already been presented and there are 11 witnesses and since the charges have not been framed, the trial is likely to take time and the petitioner is stated to be not involved in any other case. The question as to whether the recovery effected from the bag lying close to the petitioner while he was admitted in the hospital after the petitioner had been injured in a road accident, could be stated to have been effected from the conscious possession of the petitioner or not, would be finally adjudicated during the course of trial. Even in case both the alleged

recoveries, i.e. the one effected from the bag as well as the one effected from the Aactiva scooter, are taken into consideration, then also, the same would fall within the non commercial quantity as the quantity of ganja patti would be commercial quantity only if the same is more than 20 kgs. as has been stipulated in the Act. Reference in this regard may be made to the order dated 25.08.2022 passed by this Court in CRM-M-36774-2022. The said fact that the recovery is non commercial has not been disputed and it has also specifically been mentioned in the order dated 18.02.2022 rejecting the bail of the present petitioner.

Keeping in view the above said facts and circumstances, 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.

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 petition.

(VIKAS BAHL)
JUDGE

August 25, 2022

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No