

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

235

CRM-M-23340-2022

Date of decision: 31.05.2022

OM SINGH

.....Petitioner

Versus

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

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

Mr. Sumit Gupta, Addl. Advocate General, Haryana.

SURESHWAR THAKUR, J. (ORAL)

1. The instant petition has been filed under Section 439 Cr.P.C., wherein the petitioner seeks the indulgence of this court for grant of regular bail.

2. In FIR bearing No.112 of 08.04.2022, registered at Police Station City Ratia, District Fatehabad, offences constituted under Sections 21(b), 27-A (Act No. 61) of the NDPS Act, are embodied.

3. The incriminatory role, assigned to the present bail petitioner is that, he was supplying, to the principal offender, heroin weighing 65 grams.

4. Though, the above assigned incriminatory role, to the present bail petitioner, makes him a conspirator with the principal accused, and, also makes him amenable for his being tried, as such, in respect of the petition offences. However, given the weight of the seizure, and, its not falling within the ambit of commercial quantity,

thereupon, the rigors of Section 37 of the NDPS Act are not applicable thereons. Consequently, he becomes entitled for the concession of regular bail.

5. Moreover, since at this stage, no evidence has been adduced by the prosecution, suggestive that in the event of the bail petitioner being admitted to regular bail, there is every likelihood of his fleeing from justice or tampering with prosecution evidence, or influencing prosecution witnesses. As such, his judicial incarceration is not required to be any further prolonged, as thereupon, his personal liberty would become unnecessarily fettered, and, curtailed.

6. However, the learned State Counsel has vehemently opposed the application, on the ground, that the bail applicant-petitioner is a habitual offender, thereupon there is every likelihood of the bail applicant-petitioner abusing the facility of bail, as may become accorded to him. However, the vigour of the afore made submission, of the learned State Counsel, before this Court, can be mitigated, by imposition of stringent conditions, upon the bail applicant-petitioner.

7. Consequently, the instant petition is allowed, and, the petitioner-bail applicant is ordered to be released from judicial custody. However, the granting of bail to the bail applicant-petitioner, is subject to his furnishing personal and surety bonds in the sum of Rs.50,000/- each, before the learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned, and, also subject to his not tampering with prosecution evidence, and, his not influencing prosecution witnesses, and, besides also his appearing before the trial Court concerned, as and when directed to make his personal appearance. Further, subject to petitioner-bail applicant

making an undertaking before the learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned, that in case, he re-indulges in criminal activities, whereupon, on breach thereof, the order made today, shall become *ipso facto* annulled, and, that, upon, his being forthwith arrested by the investigating officer concerned, the latter shall produce the petitioner-bail applicant before the trial Court concerned, for the latter making an order for his being put to judicial custody.

8. The afore observations are meant only for the disposal of the present petition, and, shall not affect the merits of the trial arising from FIR (supra).

31.05.2022

kavneet singh

(SURESHWAR THAKUR)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*