

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Sr. No. 218

CRM-M No.27541 of 2022
Date of Decision: 05.07.2022

Bijender

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Bikram Chaudhary, Advocate,
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

VIKAS BAHL J. (ORAL)

This is a first petition under Section 439 Cr.P.C. for grant of regular bail in FIR No.023 dated 11.01.2022, registered under Sections 21(b), 61 and 85 of Narcotic Drugs and Psychotropic Substance Act, 1985, at Police Station Hisar City, District Hisar.

Learned counsel for the petitioner has submitted that the petitioner is in custody since 11.01.2022 and the challan in the present case has already been presented and there are 10 prosecution witnesses, none of whom have been examined, thus, the trial is likely to take time. It is further submitted that as per the case of the prosecution, the petitioner along with the co-accused, was walking when the police party apprehended them and recovery of 10 gm of heroin was effected from the petitioner, which is far lesser than the commercial quantity stipulated, as commercial quantity starts from 250 gms. It is also submitted that even the recovery of 20 gms of

heroin effected from the co-accused, is also a non-commercial quantity. It is stated that the petitioner is not involved in any other case.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that the recovery of the petitioner along with the co-accused is to be seen jointly. Other facts asserted by learned counsel for the petitioner have not been disputed.

Learned counsel for the petitioner, in rebuttal, has submitted that even in case the recovery is to be seen jointly, then also, the same totals to 30 gms which falls under non-commercial quantity.

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

Petitioner has been in custody since 11.01.2022 and the challan has already been presented and there are 10 prosecution witnesses, none of whom have been examined, thus, the trial is likely to take time. The petitioner is stated to be not involved in any other case. Recovery effected from the petitioner is stated to be 10 gms of heroin and the petitioner and the co-accused were allegedly walking and even in case, the recovery from the co-accused of 20 gms heroin is taken into consideration, then also, the joint recovery would constitute non-commercial quantity as the commercial quantity for heroin starts from 250 gms.

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.

However, it is made clear that in case, any act is done by the

petitioner to threaten or influence any of the witnesses, then, it would be open to the State to move an application for cancellation of bail granted to the petitioner by this order.

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.

05.07.2022
monika

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned Yes
Whether reportable No