

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

**CRM-M-35185-2021 (O&M)
Date of Decision : 21.09.2022**

Deepak Kumar

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Munish Behl, Advocate for the petitioner.

Mr. Ashok Kumar Sehrawat, DAG Haryana

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ALKA SARIN, J. (Oral)

This is the second petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.385 dated 06.12.2019 under Section 20-B of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station GRP Ambala Cantt, District GRP Ambala Cantt. The earlier petition being CRM-M-39072-2020 was dismissed as withdrawn on 11.01.2021.

Learned counsel for the petitioner would contend that the recovery in the present petition is 2 kg 15grams of Charas and that the petitioner has been in custody for a period of 02 years 09 months and that there is no other case pending against the petitioner. It is further the contention that the trial is not progressing inasmuch as out of 13 witnesses only two witnesses have been examined till date despite the challan having been filed on 17.01.2020. Learned counsel has further relied upon the judgment of the Supreme Court passed in the case of **MD Raja & Anr. Vs.**

The State of West Bengal [Criminal Appeal No.1293 of 2022 decided on 22.08.2022].

Per contra, learned counsel for the State has referred to the status report to contend that the quantity is 2 kg and 15 grams and falls within the ambit of commercial quantity and hence the petitioner is not entitled to the concession of regular bail. Learned counsel is, however, not in a position to deny that there is no other case pending against the petitioner and on instructions from SI Paramjit Singh states that the petitioner has been in custody since 02 years 09 months and 01 day now.

Heard.

In the present case the petitioner, who is a first time offender, has been in custody for a period of 02 years 09 months and 01 day. The trial in the present case has not progressed inasmuch as despite the challan having been filed on 17.01.2020, only two witnesses have been examined out of a total 13 witnesses till date.

Keeping in view the fact that that the petitioner has been in custody for a period 02 years 09 months and 01 day and that he is a first time offender and also the fact that the trial is likely to take some time, I deem it appropriate to allow the present petition.

In view of the above and without commenting upon the merits of the case, the present petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail bonds with heavy surety to the satisfaction of the Trial Court/Judge, Special Court concerned.

However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

Disposed off. Pending applications, if any, also stand disposed off.

September 21, 2022
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(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO