

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-32111-2022

Date of Decision: 8.9.2022

Dilip Singh

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. D.P.S.Bajwa, Advocate
for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana.

KARAMJIT SINGH, J.

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.27 dated 30.1.2022 registered for the offences punishable under Sections 18, 27-A of NDPS Act at Police Station City Safidon, District Jind.

Counsel for the petitioner submits that FIR in this case was registered against Shamsher Singh and Ram Mehar and thereafter, both of them were apprehended and 3 kg and 50 grams of Opium was recovered from their possession on 30.1.2022. He further submits that the petitioner was nominated as accused in the present case on the basis of the alleged disclosure made by aforesaid Shamsher Singh and Ram Mehar to the effect that he supplied the said Opium to both of them. He further contends that the petitioner was arrested on 10.4.2022 and during the investigation, no contraband was recovered from the possession of the petitioner and after

completion of investigation, the police has presented the challan. He further submits that the petitioner is also involved in one another case under NDPS Act but he has been granted bail in the said case. He further submits that in the present case, it will take time for the trial to conclude after framing of charges and as such, prayer is made to grant regular bail to the petitioner.

Present petition is opposed by the State counsel who on instructions from SI Kulwant Singh submits that 3 kg and 50 grams of Opium was recovered from co-accused Shamsher Singh and Ram Mehar by the police and on the basis of their disclosure statements, the petitioner was nominated as accused and was arrested on 10.4.2022. However, the State counsel has not refuted the fact that during the investigation, no incriminating article or contraband was recovered from the possession of the petitioner and that after completion of investigation, challan has been presented.

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

Admittedly, the petitioner was not named in the FIR and was arraigned as accused on the basis of the disclosure made by co-accused Shamsher Singh and Ram Mehar from whom the police recovered 3 kg and 50 grams of Opium. As per custody certificate furnished by the State counsel, the petitioner is in custody for the last more than 4 months and 25 days and as has been stated by the counsel for the petitioner, the petitioner is also facing one another case under NDPS Act in which he has been granted bail. No contraband has been recovered in the present case from the possession of the petitioner and after completion of investigation, the police has presented the challan and it will take considerable time for the

trial to conclude even after framing of charges. As no incriminating article has been recovered from the custody of the petitioner, this Court is of the view that strict provisions of Section 37 of NDPS Act are not attracted to the case in hand who has been named as accused only on the basis of the disclosure made by co-accused and the relevance and admissibility of the said disclosure will be considered by the trial Court at the relevant stage of the trial. Thus, no useful purpose is going to be served by keeping the petitioner in custody for any further period.

In view of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(KARAMJIT SINGH)
JUDGE

September 8, 2022

Paritosh Kumar

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