

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

232

CRM-M-33962-2022

Date of decision: 08.08.2022

MANJEET SINGH @ GOTA

.....Petitioner

Versus

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present : Mr. Kushager Goyal, Advocate
for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

SURESHWAR THAKUR, J. (ORAL)

1. The instant petition has been filed under Section 439 of Cr.P.C., wherein, the petitioner craves for indulgence of regular bail becoming granted to him, in respect of FIR No. 214 dated 30.04.2022 registered at Police Station Sadar Fatehabad, District Fatehabad, wherein, offences constituted under Sections 21-B of the NDPS Act, 1985 (Section 27-A of the NDPS Act added later on), are embodied.

2. At the crime site, from the alleged conscious, and, exclusive possession of the present bail petitioner, 5.50 grams of heroin, became recovered by the investigating officer, and, in respect thereof, seizure memo(s) became prepared.

3. Be that as it may, since the weight of the seizure, makes it fall within the ambit of non commercial quantity thereof, thereupon, the rigors of Section 37 of the NDPS Act are not applicable thereons.

Consequently, he becomes entitled for becoming admitted to regular bail.

4. 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, besides when the present bail petitioner stepped into judicial custody, on 30.04.2022, therefore, his judicial incarceration is not required to be any further prolonged, as thereupon, his personal liberty would become unnecessarily fettered, and, curtailed.

5. 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, besides there is also a possibility of his influencing the prosecution witnesses, and, tampering with prosecution evidence, and, also his re-indulging in criminal activities. 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.

6. 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.1,00,000/- 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 unless validly exempted.

7. 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).

08.08.2022
kavneet singh

(SURESHWAR THAKUR)
JUDGE

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