

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

211

**CRM-M-37603-2022
Decided on : 07.09.2022**

Sonu Kumar

. . . Petitioner(s)

Versus

State of Punjab

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Manoj R. Sharma, Advocate
for the petitioner.

Mr. J.S. Arora, DAG, Punjab.

SANJAY VASHISTH, J. (Oral)

The instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail to the petitioner – Sonu Kumar, who has been booked for having committed the offences punishable under Sections 21(b)-27(A)-29 of NDPS Act, 1985 and 25 of the Arms Act, 1959, in FIR No. 117, dated 28.05.2022, registered at Police Station City Gurdaspur.

At the outset, learned State counsel has filed the custody certificate dated 06.09.2022 in Court today. Same is taken on record, subject to all just exceptions. Office to tag the same at appropriate place.

A copy thereof has been handed over to the counsel for the petitioner.

As per the allegations in FIR, One Hari Om along with two other persons were travelling on Moped (Scooty Maestro) and were apprehended by the police on suspicion. Then driver disclosed his name as Hari Om and pillion rider disclosed their names as Jaanvi and Lalita. On search of the dicky of the moped, one envelope containing country made fire arm weapon 315 bore alongwith four cartridges out of which, two cartridges were live and two were missed cartridges and one revolver 38 bore which was unloaded and one envelope containing 15 grams of heroin and Rs. 17,000/- drug money got recovered from them.

Learned counsel for the petitioner contends that neither the

petitioner was present at the time of recovery, nor any substance has been recovered from his possession. As per the case of the prosecution main accused Hari om had disclosed that they procured the illegal weapon and Heroin from one Sonu Kumar (present petitioner), who is confined in jail, for further passing on it to one Pankaj Dutta. On the basis of the this part of investigation, petitioner submits that case against the petitioner is false, because petitioner is already inside jail since 24th May, 2022 and recovery in the present case was effected on 28.05.2022. All the more, recovery of the contraband from the main accused is 15 grams of Heroin, which falls under the non-commercial category and petitioner, who is aged about 22 years, is not involved in any other case under the NDPS Act. Therefore, bar of Section 37 of the NDPS Act, would not apply in the present case.

Learned counsel for the petitioner also points out that co-accused Rahul Kumar and Jaanvi, have already been granted concession of regular bails by this Court vide orders dated 26.08.2022, passed in CRM-M-30486-2022 (O&M) and 25.08.2022, passed in CRM-M-36654-2022 (O&M), respectively. He submits that thus case of the petitioner is on parity with the co-accused, who have already been granted the concession of regular bails by this Court.

Learned counsel for the petitioner further submits that long incarceration of the petitioner inside jail along with other hard core criminals may affect his future adversely.

Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, submits that it is a serious offence and submits that such persons, who are the suppliers of the narcotic substances are the big danger to the society. Therefore, petitioner does not deserves the concession of regular bail.

After considering the submissions of both the sides, and perusing the material available on record with their able assistance, and in the totality of the circumstances, I am of the view that the recovered contraband falls under the non-commercial category, and there is no other case registered against the petitioner under the NDPS Act, and he is aged about only 22 years. Apart from this, other co-accused have already been granted the concession of regular bails by this Court and conclusion of trial would take long time.

Accordingly, the present petition is allowed. Petitioner is

ordered to be released on bail in this case, subject to his furnishing heavy bail/surety bonds to the satisfaction of the learned Trial Court/ Chief Judicial Magistrate/ Illaqa Magistrate/ Duty Magistrate concerned, if not required in any other case.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

The observation made here-in-above shall not be construed as an expression on the merits of the case and the Trial Court shall decide the case on the basis of evidence available on record.

(SANJAY VASHISTH)
JUDGE

September 07, 2022

J.Ram

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No