

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

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**CRM-M-41256-2022
Decided on : 20.09.2022**

Hariom

. . . 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 – Hariom, 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 19.09.2022 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, petitioner- 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 petitioner had disclosed that he procured the illegal weapon and Heroin from one Sonu Kumar who was granted concession of regular bail by this Court vide order dated 07.09.2022 in CRM-M-37603-2022. All the more, recovery of the contraband from the petitioner is 15 grams of Heroin, which falls under the non-commercial category and petitioner, who is aged about 26 years, is involved in other case, in which he released on bail. 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 possessed with 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 as far as other case is concerned, petitioner is on bail as per custody certificate, and he is aged about only 27 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 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.

However, it is made clear that in future if the petitioner is found involved in any case of similar nature, the respondent-State would be at liberty to take necessary steps for cancellation of bail granted to the petitioner in present case.

(SANJAY VASHISTH)
JUDGE

September 20, 2022
Riya

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*