

(215) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-43009-2022
Date of Decision: 22.09.2022

SIKANDER TYAGI & ANOTHER

... Petitioners

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Mazlish Khan, Advocate
for the petitioners.

Mr. Kirat Singh Sidhu, D.A.G, Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C is for the grant of regular bail in case bearing FIR No.377 dated 08.07.2022 registered under Sections 20, 29 (added later on) of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Quilla, District Panipat.

2. The brief facts of the case are that secret information was received that the petitioners who were husband and wife would come on foot from Cremation Ghat Ward No.7, Panipat towards their house with the bag containing *Ganja* and if a *Nakabandi* was laid, they could be apprehended. Based on the aforementioned information, a *Nakabandi* was laid and petitioner No.2-Shabbo Khatoon was apprehended by the Police and a recovery of 03 kilos 165 grams *Ganja* leafs were recovered from her. During the course of her investigation, she named petitioner No.1 in her disclosure statement, who was thereafter arrested on 11.07.2022 with the aid of Section 29 of the NDPS Act. Subsequently, another accused Rahish son of Fatehdeen

who has since been granted regular bail vide order dated 08.09.2022 passed by the learned Additional Sessions Judge, Panipat (Annexure P-1) was also arrested on the basis of the said disclosure statement.

3. The learned counsel for the petitioners contends that the recovery from the accused of non-commercial quantity of contraband, the commercial quantity being more than 20 kilos. Section 42 NDPS has not been complied with and the recovery memos itself contain the FIR number which shows that all the documents have been prepared later on in the Police Station. He further contends that the petitioners are in custody since 08.07.2022 and 11.07.2022 respectively. None of the 18 prosecution witnesses have been examined so far and they are first time offenders. Therefore, the petitioners deserve the concession of regular bail.

4. On the other hand, the learned State counsel does not dispute the factual assertions that the petitioners are first time offenders. None of the 18 prosecution witnesses have been examined so far and the recovery from the petitioners is of non-commercial quantity of contraband. He however, submits that the petitioners do not deserve the concession of regular bail as the offence is serious in nature.

5. I have heard the learned counsel for both the parties at length.

6. Admittedly, the recovery of non-commercial quantity of contraband was effected from petitioner No.2, who is said to have named petitioner No.1 and one Rahish has since been granted regular bail vide order dated 08.09.2022 passed by the learned Additional Sessions Judge, Panipat (Annexure P-1). The petitioners are in custody since 11.07.2022 and 08.07.2022 respectively and they are first time offenders. None of the 18

prosecution witnesses have been examined so far therefore, the trial of the present case is not likely to be concluded in the near future. Therefore, the further incarceration of the petitioners are not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioners are ordered to be released on bail subject to their furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the Trial and inform in writing each time that they are not involved in any other crime other than the cases mentioned in this order.

9. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

22.09.2022

JITESH

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