

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

211

CRM-M-50754-2021
Date of decision: 14.01.2022

NEERAJ

.....Petitioner

Versus

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE SANT PARKASH

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

Mr. Amreek Singh Narwal, DAG, Haryana
for the respondent-State.

SANT PARKASH, J. (ORAL)

The case has been taken up for hearing through video conferencing.

Prayer in this petition filed under Section 439 of the Code of Criminal Procedure, 1973 is for grant of regular bail to the petitioner, in case, FIR No. 196 dated 08.07.2021 registered under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act') at Police Station Kheri Pul, District Faridabad.

As per the prosecution version, police party on the basis of secret information apprehended accused-petitioner and 1 Kg and 450 grams of Ganja leaves was recovered from his conscious possession.

The petition has been opposed by learned State Counsel in terms of reply filed by way of affidavit of Surender Sheoran, HPS, Assistant Commissioner of Police, Crime, District Faridabad in the Registry which is taken on record.

I have heard learned Counsel for the parties and gone through the case file.

Learned Counsel for the petitioner has argued that the petitioner has been falsely implicated in the present case. The alleged recovered substance i.e. Ganja leaves do not fall under the NDPS Act and no offence is made out against the petitioner. There is a delay of 50 days in sending the sample to the FSL. No independent witness was joined at the time of alleged recovery and the mandatory provisions of the NDPS Act have not been complied with. The allegedly recovery of contraband from the petitioner is non commercial quantity. The petitioner is in custody since 08.07.2021. Challan has already been filed. The trial in the present case is likely to take long time due to restrictions imposed to prevent spread of infection of Covid-19. No useful purpose will be served by keeping the petitioner in custody. Therefore, the petitioner may be ordered to be released on regular bail.

On the other hand, learned State Counsel in view of the reply has submitted that the petitioner is a habitual offender who is involved in three other cases out of which in one he has been convicted, in one he is acquitted and one is pending for prosecution evidence. In view of recovery, the nature of accusation and gravity of the offence, the petitioner does not deserve grant of regular bail. Therefore, the petition may be dismissed.

Having considered the facts and circumstances of the case, nature of accusation, recovery of contraband from the petitioner falling in non-commercial category, Challan has already been filed, custodial

interrogation of the petitioner not required and the fact that the trial is likely to take long time due to restrictions imposed to prevent spread of infection of Covid-19 but without expressing any opinion on the merits of case, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of personal and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

14.01.2022
kavneet singh

(SANT PARKASH)
JUDGE

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