

102.

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

CRM-M-47057-2022

Date of Decision: 14.10.2022

ARIF SAIFI @ MOHAMAD ARIF

.... Petitioner

Versus

STATE OF UT CHANDIGARH

.... Respondent

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Nikhil K. Vashisht, Advocate,
for the petitioner.

JAISHREE THAKUR.J (Oral)

This is second petition that has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.170, dated 25.08.2020, registered under Section 18 of the NDPS Act at Police Station Industrial Area, Chandigarh.

It is contended that the petitioner herein is facing allegation of being found in possession of 1 kg 100 grams of opium, which is non-commercial quantity. The petitioner had been allowed anticipatory bail. During the course of trial, the petitioner was not able to reach the court in time on the date the matter was listed for hearing and cross-examination. It is contended that due to the ongoing festival of *kawad yatra*, he got stuck in a complete traffic jam and could not put an appearance on the date so fixed. He has prayed for one more opportunity to be present.

Notice of motion.

Mr. D.S. Brar, APP, UT, Chandigarh, who is present in Court, accepts notice on behalf of respondent-UT, Chandigarh and opposes the grant of anticipatory bail while stating that the petitioner is unnecessarily delaying the trial on one pretext or the other.

I have heard learned counsel for the parties and taking note of the fact that the petitioner had been allowed anticipatory bail by this Court on an earlier occasion, the alleged possession of the opium is not of a commercial quantity and that the trial is proceeding, no useful purpose would be achieved in sending him into custody now. Therefore, the explanation for non-appearance on the relevant date on account of being stuck in *kawad yatra* procession is accepted with a direction to the petitioner to present himself before the trial Court on the date so fixed and on his appearance, he shall be released on anticipatory bail subject to his furnishing fresh bail/surety bonds within 15 days to the satisfaction of the trial Court/Duty Magistrate. However, it is made clear that even a single default will entitle the trial Court to cancel his bail.

Present petition stands disposed of accordingly.

(JAISHREE THAKUR)
JUDGE

14.10.2022

sanjeev

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No