

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-47934-2022

Date of Decision: 10.11.2022

Ram Kumar

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Ms. Pallavi Babbar, Advocate
for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana.

KARAMJIT SINGH, J.

Prayer in the present petition under Section 439 of Code of Criminal Procedure is for grant of regular bail to the petitioner in case FIR No.132 dated 21.4.2022 registered for the offences punishable under Sections 18 of NDPS Act (Section 27-A of NDPS Act added later on) at Police Station Narwana City, District Jind.

Counsel for the petitioner submits that in the present case, no contraband was recovered from the conscious possession of the petitioner who was travelling in a car along with Phool Kumar and as per allegations, 500 grams of Opium was recovered by the police from the dashboard of the said car. She further submits that aforesaid Phool Kumar has been granted regular bail vide order dated 20.5.2022 (Annexure P-2) by the Court of Additional Sessions Judge, Jind. She further contends that the aforesaid contraband comes under non-commercial quantity and that in another case

in the present case, the petitioner is lodged behind the bars for the last more than 6 months and it will take considerable time for the trial to conclude.

Present petition is resisted by the State counsel who on instructions from ASI Pawan, submits that in this case, 500 grams of Opium was recovered from the dashboard of the car in which the present petitioner and Phool Kumar were travelling on 21.4.2022 and that since then, the petitioner is in custody. He further submits that the petitioner is a habitual offender and is already facing one another case under NDPS Act as is clear from the custody certificate dated 9.11.2022. He, however, has not disputed the fact that aforesaid 500 grams of Opium comes under non-commercial quantity and that the challan has been presented but trial is yet to commence even though charges have been framed.

I have considered the submissions made by the counsel for the parties.

Admittedly, in another case faced by the petitioner under NDPS Act, he has been bailed out. Present case is relating to recovery of 500 grams of Opium from the dashboard of the car in which the petitioner and Phool Kumar were stated to be travelling on 21.4.2022. Admittedly, co-accused Phool Kumar has been granted regular bail by the learned trial Court vide order Annexure P-2. The petitioner is in custody for the last more than 6 months and it will take time for conclusion of trial. Rigors of Section 37 of NDPS Act are not applicable to the instant case it being case relating to recovery of 500 grams of Opium. Thus, no useful purpose is going to be served by keeping the petitioner in custody for any further period.

In view of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(KARAMJIT SINGH)
JUDGE

November 10, 2022

Paritosh Kumar

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