

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

223

CRM-M-50141-2022
Decided on :21.12.2022

Deepak Mittal @ Vicky

. . . Petitioner

Versus

U.T. Chandigarh

. . . Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Rahil Mahajan, Advocate and
Mr. Arjun Dosanj, Advocate
for the petitioner.

Mr. A. M. Punchhi, P.P., U.T. Chandigarh

VIKAS BAHL, J. (Oral)

This is the first petition under Section 439 Cr.P.C. for grant of regular bail to the petitioners in FIR No. 108 dated 09.07.2022 registered under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Sector-34, Chandigarh.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 09.07.2022 and the challan has already been presented and there are 15 witnesses, out of which, none have been examined and thus, the conclusion of trial is likely to take time. It is further submitted that the alleged recovery from the petitioner is of 33 gms. of heroin which would fall under non commercial category inasmuch as, commercial quantity stipulated for the same starts from 250 gms.

Learned State counsel, on the other hand, has opposed the

present petition for regular bail to the petitioner and has submitted that the petitioner is involved in 3 other cases out of which two cases are under the NDPS Act and thus, he is habitual offender and does not deserve the concession of regular bail.

Learned counsel for the petitioner, in rebuttal, has submitted that in all the said cases, the petitioner is on bail and in this regard, has relied upon the judgment of Hon'ble Supreme Court in ***“Maulana Mohd. Amir Rashadi vs. State of U.P. and another”***, reported as ***2012 (2) SCC 382*** to contend that the facts and circumstances of the present case are to be seen while deciding a bail application and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in other cases. The relevant portion of the said judgment is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

This Court has heard learned counsel for the parties and has perused the paper book.

Keeping in view the above said facts and circumstances moreso, the fact that the petitioner has been in custody since 09.07.2022 and the challan has already been presented and there are 15 witnesses,

out of which, none have been examined and thus, the conclusion of trial is likely to take time and recovery from the present petitioner is of non commercial quantity and thus, the bar under Section 37 of the NDPS Act would not apply and also in view of the law laid down in *Maulana's (supra)* case, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to him not being required in any other case.

However, it is made clear that in case, any act is done by the petitioner to threaten or influence the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

21.12.2022
Mehak

(VIKAS BAHL)
JUDGE

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