

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-221-2022

DATE OF DECISION: MAY 30, 2022

MAM HUSSAIN

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. NARESH KUMAR, ADVOCATE FOR THE PETITIONER.
MR. RAMANDEEP SINGH SANDHU, SR.DAG, PUNJAB.

MANOJ BAJAJ, J.(ORAL)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No.163 dated 15.10.2020, under Section 20 NDPS Act, Police Station Bullowal, District Hoshiarpur, who is in custody since his arrest on 15.10.2020.

The allegations contained in the FIR as noticed by the Judge, Special Court, Hoshiarpur in the order dated 15.11.2021, are as under:-

“As per case of prosecution on 15.10.2020, ASI Buta Singh alongwith his police party had apprehended four accused, while coming together at the spot and on enquiry, they disclosed their names as Darshan Singh @ Aman son of Sohan Singh, Lal Hussain son of Ummar Din, Mam Hussain son of Rashid Mohammad and Gaurav Bhola son of Jag Partap. On the search of polythene bag carried by the accused Darshan Singh @ Aman 1.600 kgs Charas was recovered. Similarly, from the search of polythene bag carried by accused Lal

Hussain 420 grams Charas, from the polythene bag carried by accused Mam Hussain 380 grams Charas and from the polythene bag carried by fourth accused namely Gaurav Bholla 100 grams Charas was recovered. Each accused was found in conscious possession of Charas and in all, total 2.5 kg of Charas, while they were walking together and apprehended by the police party at the spot being together.”

Learned counsel for the petitioner has argued that as per the prosecution, 380 gms. of Charas was recovered from the petitioner and the said quantity was non-commercial in nature. He submits that similarly situated co-accused of the petitioner has already been released on bail by this Court on 11.2.2021. He further submits that charges have been framed and out of total 11 prosecution witnesses, only 2 witnesses have been examined. He prays for bail.

On the other hand, learned counsel for the State assisted by ASI Kashmiri Lal has opposed the aforesaid prayer. However, he has not disputed that similar situated co-accused of the petitioner has been released on regular bail. He, on instructions, further states that the petitioner is not involved in any other case of similar nature.

Considering the above background, the custody of the petitioner and the fact similarly situated co-accused of the petitioner has already been released on bail, this Court does not find any reason to decline the prayer as the trial is likely to take considerable time to conclude.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to his furnishing requisite bail bonds/surety bonds

to the satisfaction of the trial Court concerned.

The petition is allowed.

May 30, 2022
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No