

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-4139-2023

Date of Decision: 02.02.2023

Vijay

.... Petitioner

Versus

State of Haryana

.... Respondent

**CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA**

Present: - Mr. B.S. Mamli, Advocate for the petitioner.

Mr. Gaurav Bansal, Assistant Advocate General, Haryana.

**ASHOK KUMAR VERMA, J. (ORAL)**

Custody certificate dated 01.02.2023 filed by learned counsel for the State is taken on record.

The petitioner has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No. 0317 dated 15.10.2022 registered under Sections 21-B, 27-A and 29 of the NDPS Act at Police Station City Ratia, District Fatehabad.

As per prosecution story, on 15.10.2022, ASI Roshan Lal along with other police officials was present at Nakabandi on village Bharpur Mod, then, two young boys were seen coming on a motorcycle from the side of Fatehabad, who on seeing the police party, tried to turn their motorcycle. ASI Roshan Lal, apprehended them and on asking, the driver told his name as Vijay S/o Pawan Kumar (petitioner herein) and

his companion told his name as Kamal Kumar S/o Satbir Singh. On search, 50.66 grams of heroin was recovered from the jeans pant worn by Kamal Kumar. Both the accused were arrested. Co-accused-Kamal Kumar, had stated that he had purchased the aforesaid contraband from Vikram @ Pahari for a sum of Rs.45,000/-.

Learned counsel for the petitioner, *inter alia*, contends that the petitioner has falsely been implicated in the instant case. The alleged contraband was recovered from the jeans pant worn by co-accused-Kamal Kumar. The petitioner was only driving the motorcycle at the time of commission of crime. The contraband recovered from the petitioner and his co-accused falls within the ambit of 'non-commercial quantity'. He is not involved in any other case under the NDPS Act. The petitioner is in custody since the date of his arrest. Trial is likely to take time and no purpose will be served by keeping the petitioner in custody. Thus, it is prayed that the petitioner may be granted the concession of regular bail.

On the other hand, learned State Counsel has vehemently opposed the submissions made by learned counsel for the petitioner. However, learned counsel for the State fairly conceded the fact that he is not involved in any other case under the NDPS Act.

I have heard learned counsel for the parties.

Keeping in view the facts and circumstances of the case, the fact that the alleged recovery of contraband from the petitioner and his co-accused is an intermediate quantity and also the fact that he is not involved in any other case under the NDPS Act, but without commenting

on the merits of the case, I am of the considered view that the petitioner deserves the concession of regular bail.

Accordingly, the present petition is allowed and petitioner-Vijay, is ordered to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate concerned.

February 02, 2023  
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(ASHOK KUMAR VERMA)  
JUDGE

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |