

CRM-M-4553-2023

-1-

(219) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-4553-2023
Date of Decision: 19.07.2023

NAVEEN

... Petitioner

Versus

STATE OF UT, CHANDIGARH

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Amit Kohar, Advocate
for the petitioner.

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

JASJIT SINGH BEDI, J.

The prayer in the petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.0181 dated 15.12.2022 registered under Section 21 of NDPS Act, 1985 at Police Station Central Sector 17, Chandigarh.

2. The brief facts of the case are that while the police party was on patrolling duty, one haircut young boy was seen coming from backside of the Bus Stand Sector 17, Chandigarh towards the police party. On seeing them, the boy got puzzled, stopped, turned back and started walking swiftly. On suspicion, the boy was chased and was apprehended. He tried to throw away one heavy polythene envelope, which was he carrying in his right hand by taking it out from the right pocket of his jeans. However, he was apprehended. The search of the bag revealed 267 grams of heroin, leading to the registration of the present FIR.

CRM-M-4553-2023

-2-

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. However, taking the prosecution case to be true the recovery was marginally above the commercial quantity and therefore the petitioner was entitled to the concession of bail. Even otherwise as he was a first-time offender, in custody since 15.12.2022 and none of the 24 prosecution witnesses had been examined so far, therefore, the trial of the present case was not likely to be concluded anytime soon which would entitle the petitioner to the concession of bail.

4. On the other hand, the learned State counsel contends that the commercial quantity of contraband has been recovered from the petitioner. Therefore, he was not entitled to the concession of bail in view of the bar contained under Section 37 of the NDPS Act. He, however, concedes that the petitioner is a first time offender, in custody since 15.12.2022 and none of the 24 prosecution witnesses had been examined so far.

5. I have heard the learned counsel for the parties.

6. In the cases of 'Sukhchain Singh @ Manga Versus State of Punjab, CRM-M-7857-2022 decided on 04.04.2022, Pardeep Singh versus State of Punjab, CRM-M-46244-2022 decided on 19.01.2023, Hari Yadav @ Haiya versus State of Punjab (CRM-M-37645-2021)' decided on 11.11.2022, 'Jang Kanwar Versus State of Punjab (CRM-M-53415-2021)' decided on 19.01.2022, 'Shankar Prashad Chanau Versus The State of Punjab, CRM-M-24090-2020, decided on 27.08.2020, Gurpreet Kumar Versus State of Punjab, CRM-M-17021-2021, decided on 31.08.2021, Salim Versus State of Haryana, CRM-M-42436-2020, decided on 24.02.2021, Gagandeep Versus State of Punjab, CRM-M-3055-2021, decided on

CRM-M-4553-2023

-3-

27.01.2021, Gurpreet Singh @ Gopi Versus State of Punjab, CRM-M-41039-2019, decided on 26.02.2020, Dalbara Singh Versus State of Punjab, CRM-M-47880-2022 decided on 16.01.2023’, and Vivek Watts versus State of Punjab, CRM-M-13791-2022 decided on 15.02.2023, where the recovery from the accused was marginally above the commercial quantity for the respective contraband in each case, the Court granted bail to the accused therein.

7. In the present case, the alleged recovery from the petitioner is of 265 grams of heroin, which is marginally above the commercial quantity of 250 grams. In this situation, the provisions of Section 37 of the NDPS Act can be relaxed to an extent and the case of the petitioner can be considered for the grant of bail, moreso, as he is a first-time offender, in custody since 15.12.2022, and none of the 24 prosecution witnesses have been examined so far.

8. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Naveen son of Dilbagh is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. The petitioner shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that he is not involved in any other case other than the present case.

10. In addition, the petitioner (or someone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the

CRM-M-4553-2023

-4-

Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from Trial without sufficient cause.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

19.07.2023

JITESH

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No