

**248 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-6117-2023

Date of Decision: 08.05.2023

Ravinder

..... Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

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

Mr. B.S. Virk, Deputy Advocate General, Haryana.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present petition is for the grant of regular bail to the petitioner in a case FIR No.381 dated 20.10.2022, registered under Sections 21, 27-A and 29 of NDPS Act, 1985 at Police Station Sadar Jhajjar, District Jhajjar.

As per facts of the case, the FIR was registered on the statement of ASI Sanjay Kumar, wherein, it was alleged that while on patrolling they received a secret information that Ravinder son of Prem Singh and Bindu son of Pritam Singh are indulging in selling intoxicating substance heroin/chitta and they are coming in a car bearing No.HR-19R-4845 and if naka is laid, they can be arrested. On finding the secret information reliable, formalities under Section 42 NDPS Act were completed and naka was laid. Both the accused Ravinder and Bindu were arrested with Alto Car. On their search, 45 grams of heroin was recovered from the dash board of the car. They failed to show any licence for possession of the same and thus, were arrested for the offence under Sections 21, 27-A, 29 of the NDPS Act. Samples taken were sent to the FSL. During their investigation, they made disclosure about third accused, namely, Sahil. The petitioner approached the

Court of learned Additional Sessions Judge, Jhajjar for grant of bail, who, after hearing the parties, declined the same vide order dated 21.01.2023. Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition for grant of bail.

It has been vehemently contended by learned counsel for the petitioner that the petitioner has been falsely implicated in this case. He has submitted that as per the case of the prosecution, recovery of 45 grams of heroin was effected from the dash board of alto car being driven by the petitioner and one Bindu was sitting near to him on the conductor seat. He submits that during their disclosure statement they disclosed about one Sahil being supplier of the contraband recovered. He further submits that the co-accused Bindu has been granted bail by the learned trial Court vide order dated 05.05.2023 and Sahil has also been granted bail by this Court vide order dated 01.05.2023. He submits that even otherwise recovery made from the petitioner and the co-accused is 45 grams heroin, which falls under non-commercial quantity as per the schedule in the NDPS Act. He submits that the petitioner has already completed incarceration of about 6 months and the investigation is also complete. He further submits that the petitioner has never been involved in any other case of the similar nature and thus, he has clean antecedents. He submits that in the facts and circumstances, the petitioner deserves to be granted bail.

On the other hand, learned State counsel has opposed the submissions made by learned counsel for the petitioner and on instructions from ASI Kulvir has submitted that the petitioner alongwith co-accused Bindu was arrested on the spot alongwith 45 grams of heroin. However, he acknowledges that the co-accused, namely, Bindu and Sahil have been granted bail. He submits that the investigation is complete and challan is

already filed and the case is now fixed for framing of charges on 22.05.2023. He submits that FSL report is also received and the contraband is confirmed to be heroin.

After hearing learned counsel for the parties and perusing the record, it is apparent that the petitioner alongwith co-accused was arrested on the spot. The contraband recovered from the petitioner is 45 grams of heroin, which falls in the non-commercial quantity. As the quantity recovered is non-commercial, sentence can be upto 10 years of imprisonment, however, there is no minimum sentence. There is nothing on record to show that the petitioner is a habitual offender. The veracity of the allegations would be evaluated by the trial Court only after appreciation of complete evidence to be led by both the parties before it. This Court would refrain itself from commenting anything on the merits of the case, however, considering the prayer for grant of bail to the petitioner, I am of the view that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner. The trial would take sufficiently long time for its conclusion.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail to the satisfaction of the concerned trial Court/Duty Magistrate.

Nothing said herein shall be treated as an expression of opinion on the merits of the case.

08.05.2023
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Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No