

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

227

CRM-M-7281-2023

Date of decision : 15.02.2023

Naresh Kumar @ Sunny

Petitioner

V/S

State of Haryana

Respondent

CORAM : HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Munish Garg, Advocate for
Mr. Munish Kamboj, Advocate
for the petitioner.

Mr. Gaurav Bansal, Asstt. A.G., Haryana
for the respondent-State.

ASHOK KUMAR VERMA, J. (ORAL)

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.317 dated 15.10.2022 registered under Sections 21(b) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (to which Section 27-A of the NDPS Act was added later on) at Police Station City Ratia, District Fatehabad.

Custody certificate dated 14.02.2023 has been filed by learned State counsel in the Court today which is taken on record.

Brief facts of the case are that on 15.10.2022, when police party headed by ASI Roshan Lal was present at Village Bharpur Mod, 02 young boys were seen coming on the motorcycle from the side of Fatehabad. On seeing the police party, they tried to turn their motorcycle but the police apprehended them. On asking, the driver of

the motorcycle told his name as Vijay and the companion told his name as Kamal Kumar. On conducting search in accordance with law, 50.66 grams heroin was recovered from the pent of accused-Kamal Kumar. In his disclosure statement accused-Kamal Kumar had stated that he had purchased the alleged contraband from one Vikram @ Pahari for a sum of Rs.45,000/-.

Learned counsel for the petitioner has submitted that the petitioner was not apprehended on the spot and nothing has been recovered from him. The petitioner has been falsely implicated in the case only because co-accused-Kamal Kumar has stated in his statement that he has bought the alleged contraband recovered from him from an unknown person whose mobile number is 74968-86015. When the investigation was conducted the said number was found to be registered in the name of the petitioner. The petitioner has nothing to do with co-accused Vijay and Kamal Kumar from whom the alleged contraband was recovered. Even otherwise, the alleged quantity of contraband recovered from the co-accused falls in the category of non-commercial quantity. The petitioner is not involved in any other case under the NDPS Act. Co-accused Vijay, who was riding the motorcycle, has already been granted concession of regular bail by this Court vide order dated 02.02.2023 passed in CRM-M-4139-2023. The petitioner is in custody since 11.11.2022. The trial is likely to take long time. No useful purpose will be served by further detention of the petitioner in custody. Therefore, the petitioner may be released on regular bail.

On the other hand learned State counsel has opposed the

present petition on the ground that co-accused Vikram @ Pahari had given 50 grams heroin to the petitioner for selling and the petitioner got recovered Rs.500/- given to him as commission for selling the heroin. The petitioner is also involved in 01 other case under the IPC and Arms Act, however, he is on bail on the said case.

I have heard learned counsel for the parties and gone through the paper-book.

Keeping in view the facts and circumstances of the case, custody period of the petitioner, the facts that the petitioner is not apprehended on the spot, the contraband recovered from the co-accused falls in the category of non-commercial quantity, co-accused Vijay has already been granted concession of regular bail by this Court and also the fact that the trial is likely to take long time 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 the petitioner-Naresh Kumar @ Sunny 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.

However, State will be at liberty to file application for cancellation of petitioner's bail, if he is found involved in any other case under the NDPS Act during the period of bail.

15.02.2023
kothiyal

(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No