

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-7505-2023
Date of Decision: 28.02.2023

JIWAN KUMAR

... PETITIONER

V/S

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Lokesh Vohra, Advocate for the petitioner.

Ms. Ruchika Sabherwal, DAG Punjab.

* * *

VIVEK PURI, J. (ORAL)

Petitioner has prayed for grant of regular bail in case FIR No. 77 dated 03.09.2022, registered under Section 21 of Narcotic Drugs and Psychotropic Substances Act at Police Station City Ahmedgarh, District Malerkotla.

Custody certificate has been taken on record.

Briefly, as per the allegations 8.5 gms of intoxicating powder has been recovered from the conscious possession of the petitioner.

Learned counsel for the petitioner contends that as per the report of FSL, the contents of sample were that of diacetylmorphine (heroin). The quantity of contraband is slightly above the small quantity. Furthermore, the petitioner is not involved in any other criminal case. The custodial interrogation of the petitioner is over and he has been remanded to judicial custody, conclusion of investigation and trial is likely to take some time.

Learned State counsel, on instructions from ASI Balwinder Singh, has not disputed the aforesaid factual aspects.

Custody certificate indicates that the petitioner is in custody for a period of 5 months and 26 days and not involved in any other case. In the instant case, 8.5 gms of heroin has been recovered from the possession of the petitioner and the contraband falls in the category of less than commercial quantity. As such, the stringent provisions of Section 37 of the NDPS Act are not attracted in the instant case. The conclusion of investigation and trial is likely to take some time and no fruitful purpose would be served by detaining the petitioner in further custody.

As such, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner. Therefore, without making any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing fresh bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

The petition is allowed.

28.02.2023

Janki

**(VIVEK PURI)
JUDGE**

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