

210
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-10977-2023 (O&M)
Date of Decision: 10.03.2023

KUNAL NAGRAT

....Petitioner(s)

Versus

STATE OF HARYANA

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. K.L. Saini, Advocate, for the petitioner.

Ms. Nidhi Garg, AAG, Haryana.

JASGURPREET SINGH PURI, J. (Oral)

The present is a second petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in FIR No. 579 dated 14.11.2021, under Section 21 (C) of NDPS Act, registered at Police Station City Jind, District Jind (Haryana).

Learned counsel for the petitioner has submitted that the petitioner is in custody from 14.11.2021 which is almost 1 year and 4 months. He submitted that the investigation of the case has already been completed and thereafter the charges have been framed on 04.07.2022 and more than 8 months have elapsed but no prosecution witness has been examined. He submitted that the alleged recovery from the petitioner was 245 grams of Heroin which does not fall in the category of commercial quantity under the NDPS Act and therefore the bar contained under Section 37 of the NDPS Act

will not apply in the present case. He submitted that the petitioner is not

involved in any other case under the NDPS Act but there was earlier one case under Sections 323, 341 and 34 IPC and it was only because of the pendency of the aforesaid FIR against the petitioner that the present case was planted upon the petitioner. He has therefore submitted that in view of the aforesaid position and the custody of the petitioner, he may be considered for the grant of regular bail.

On the other hand, Ms. Nidhi Garg, learned AAG, Haryana has submitted that it is correct that the petitioner is in custody from 14.11.2021 which is almost 1 year and 4 months and the charges were framed on 04.07.2022 but till date no prosecution witness has been examined and the recovery does not fall in the category of the commercial quantity. She has however opposed the grant of bail to the petitioner on the ground that since it was a recovery of Heroin from the petitioner and the matter was serious in nature, he does not deserve the concession of regular bail.

I have heard the learned counsel for the parties.

The custody of the petitioner is 1 year and 4 months. The charges were framed on 04.07.2022 but till date no prosecution witness has been examined. The alleged recovery from the petitioner does not fall in the category of commercial quantity. The petitioner is stated to be not involved in any other case under the NDPS Act.

In view of the aforesaid facts and circumstances and considering the custody of the petitioner which is 1 year and 4 months, this Court deems it fit and proper to grant regular bail to the petitioner.

Consequently, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

10.03.2023

rakesh

Whether speaking
Whether reportable

(JASGURPREET SINGH PURI)
JUDGE

: Yes/No
: Yes/No