

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-10885-2023
Date of Decision: 09.05.2023

Ravinder Kumar @ Kala

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Sumit Sangwan, Advocate
for the petitioner.

Mr. Ram Kumar Singla, DAG, Haryana.

HARSH BUNGER J. (ORAL)

Prayer in the present petition, filed under Section 439 of the Code of Criminal Procedure, is for grant of regular bail to the petitioner in case FIR No.0489 dated 07.10.2022, under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station City Bahadurgarh, District Jhajjar (Annexure P-1).

2. Upon issuance of notice, status report dated 06.05.2023 by way of an affidavit of Pawan Kumar, H.P.S., Deputy Superintendent of Police, Bahadurgarh, District Jhajjar on behalf of respondent/State has been filed in Court today, which is taken on record, subject to all just exceptions.

3. Custody certificate dated 08.05.2023 of the petitioner has been filed by learned State counsel in Court today, which is taken on record,

subject to all just exceptions.

4. Brief facts of this case are that on 07.10.2022, when ASI Rajesh along with fellow employees was on patrolling duty at Badli Chungi for search of narcotic substance, a secret information was received that one Ravinder Kumar @ Kala (petitioner) is indulged in selling smack and if raid is conducted then Ravinder Kumar @ Kala can be apprehended. Finding the information reliable, raid was conducted and Ravinder Kumar @ Kala was apprehended by the police officials. After complying with necessary procedure, search was conducted and from left pocket of his pant Rs.110/- and a mobile phone of OPPO company was found. From the right pocket of his pant, a polythene containing smack was recovered from his possession and weight of the said alleged contraband found to be 15 grams. Accordingly, the present case FIR was registered.

5. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. It is submitted that the alleged recovered contraband i.e. 15 grams of smack falls under the category of non-commercial quantity and the bar under Section 37 of the Narcotic Drugs and Psychotropic Substances Act is not attracted. It is stated that the petitioner has been in custody since 07.10.2022, the investigation of this case is complete and challan has already been presented. Learned counsel submits that the petitioner is not involved in any other case. Learned counsel next submits that FSL Report in this case has not been received, however, the bail application moved by the petitioner for grant of regular bail has wrongly been dismissed by learned Additional Sessions Judge, Jhajjar, vide its order dated 16.01.2023 (Annexure P-2). It is further submitted that the trial would take some time and the petitioner is ready to abide by all the

conditions as may be imposed by this Court or by the trial Court; accordingly prayer for grant of regular bail is made.

6. Learned State counsel opposes the plea of petitioner for grant of regular bail on the ground of seriousness of the offence. However, it is not disputed that the petitioner has been in custody for 7 months and 1 day (as on 08.05.2023) and challan has already been presented. It is also not disputed that the alleged recovered contraband (15 grams smack) falls under the category of non-commercial quantity. It is also not disputed that the petitioner is not involved in any other case and FSL Report has not been received.

7. I have heard learned counsel for the parties and perused the paper book, status report as well as custody certificate filed by learned State counsel, in Court today.

8. In the instant case, the alleged recovered contraband (15 grams smack) is non-commercial in nature, hence, rigors of Section 37 of the Narcotic Drugs and Psychotropic Substances Act are not attracted. The petitioner has been in custody for the last more than 7 months, and investigation in this case is complete and the challan has already been presented. The petitioner is stated to be not involved in any other case and as per Status Report, FSL Report has not been received in this case. The trial is likely to take long time and no useful purpose would be served by keeping the petitioner behind the bars for indefinite period.

9. Keeping in view the aforementioned circumstances, the instant petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the Trial Court/Illaq Magistrate/Duty Magistrate concerned. However, the concerned

Station House Officer shall be informed about the release of petitioner and the petitioner shall inform the concerned Station House Officer about his address at which he intends to reside during the pendency of case and any change in the address shall also be communicated to the concerned Station House Officer, forthwith. The petitioner would also furnish his telephone number to the concerned Station House Officer. He would also furnish his undertaking to the effect that he will not indulge in any illegal activity, during the pendency of the trial. He shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial.

10. In addition, the petitioner (or any one on his behalf) shall prepare an FDR in the sum of Rs.50,000/- and deposit the same with the 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. Nothing expressed hereinabove shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for bail at this stage.

12. The petition is accordingly disposed of.

09.05.2023*Himani***(HARSH BUNGER)
JUDGE**

- | | |
|--------------------------------|--------|
| 1. Whether speaking/reasoned : | Yes/No |
| 2. Whether reportable : | Yes/No |