

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

**CRM-M-13514-2023
Date of Decision: 11.04.2023**

Shekhar

..... Petitioner

Versus

Union Territory, Chandigarh

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Avneet Singh Cheema, Advocate
for the petitioner.

Mr. A.M. Punchhi, PP, U.T., Chandigarh.

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.72 dated 15.10.2022, under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station IT Park, Chandigarh.

Affidavit dated 11.04.2023 of Udaypal Singh, SDPO North-East, Chandigarh, on behalf of respondent/Union Territory, Chandigarh and custody certificate dated 11.04.2023 of the petitioner has been filed by learned State counsel in Court today and the same are taken on record, subject to all just exceptions.

As per prosecution, on 15.10.2022, at around 03:50 PM, when ASI Mohd. Aslam along with his team was on patrolling duty in the area of

IT Park, Chandigarh, the petitioner was apprehended near the Veterinary Hospital Road, Manimajra, Chandigarh and found to be in possession of 6.70 grams of Heroin. On asking, the petitioner disclosed his identity and could not produce any permit or license for the possession of alleged contraband. Accordingly, the present FIR was registered.

Learned counsel for the petitioner submits that the FIR was registered against the petitioner at the instance of ASI Mohd. Aslam. It is submitted that the alleged recovered contraband falls under the category of intermediate quantity i.e. 06.70 grams (herion) whereas the commercial quantity is 250 grams. It is further submitted that the petitioner has been in custody since 16.10.2022 and the investigation is complete; challan stands presented against the petitioner on 12.12.2022 and even charges have been framed against the petitioner on 03.01.2023. It is stated that out of 13 witnesses, no one has been examined and the petitioner is not involved in any other NDPS case. Learned counsel next submits that 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.

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 more than five months, challan has already been presented and charges have been framed. It is further not disputed that the alleged recovered contraband in this case i.e. 06.40 grams of Heroin falls under category of intermediate quantity and except one more case against petitioner under Excise Act, there is no case under NDPS Act, against petitioner.

I have heard learned counsel for the parties and perused the paper book as well as the custody certificate and affidavit filed by learned counsel appearing for U.T. Chandigarh.

In this case, the alleged recovered contraband is 6.70 grams of heroin, which falls in category of non-commercial quantity and rigorous of Section 37 of NDPS are not attracted. The petitioner has been in custody for five months and twenty seven days (as on 11.04.2023); challan has already been presented and charges have already been framed. Out of 13 witnesses, no one has been examined till date. The trial is likely to take long time and no useful purpose would be served by keeping the petitioner behind the bars.

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.

The petitioner shall appear before the police station concerned on first Monday of every month till the conclusion of the trial.

In addition, the petitioner (or any one on his behalf) shall prepare an FDR in the sum of Rs.30,000/- 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.

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.

The petition is accordingly disposed of.

11.04.2023
Himani

(HARSH BUNGER)
JUDGE

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