

CRM-M- 13519-2023 (O&M)

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M- 13519-2023 (O&M)
Date of Decision: 22.03.2023

Vipin Kumar

... Petitioner

V/s.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present : Mr. Gurpal Singh Sandhu, Advocate
for the petitioner.

Mr. Gurdarshan Singh Sidhu, AAG, Punjab.

DEEPAK MANCHANDA, J.(Oral)

Petitioner has prayed for grant of regular bail under Section 439 Cr.P.C. in case FIR No. 208 dated 26.12.2022, under Sections 21 (b), 27 of NDPS Act registered at Police Station Sadar Malout, District Sri Muktsar Sahib, who is alleged to have possessed contraband of 06 grams of heroin.

Learned counsel for the petitioner contends that the petitioner is in custody since 26.12.2022. He submits that the petitioner has been falsely implicated in the present case as the alleged recovery has not been effected from the conscious possession of the petitioner. As per the prosecution version, the alleged recovery is from roadside, on which the polythene bag carrying contraband of 06 grams heroin is said to have thrown out by the petitioner. Learned counsel further submits that the

alleged recovery falls under the ambit of non-commercial quantity. He contends that the challan stands presented and the alleged recovery is of non-commercial quantity and the conclusion of trial will take sufficient time, therefore, the petitioner be enlarged on bail.

Custody certificate has been filed by the respondent-State, which is taken on record. Even though learned counsel appearing on behalf of respondent-State, on instructions from the Investigating Officer, opposes the grant of regular bail to the petitioner, while submitting that the petitioner is a habitual offender and the offence alleged against the petitioner is serious in nature and he is involved in other cases as well, however, he does not dispute the fact that the challan stands presented.

Confronted with the same, learned counsel for the petitioner submits that in all two cases registered under NDPS Act, the alleged recovery is of very small quantity and in third case there is no recovery from the conscious possession of the petitioner. He further submits that in FIR No. 44 dated 27.03.2018 and FIR No. 178 dated 20.08.2019 registered under the NDPS Act, the petitioner has been released on bail.

I have heard learned counsel for the parties.

Petitioner is in incarceration since 26.12.2022.

It is not a case made out by the respondent-State that in case concession of bail is granted to the petitioner, he would hamper the course of free and fair trial. Further, since recovery is of non-commercial quantity and the challan stands presented and no other case is pending against the petitioner under the NDPS Act and the trial would take sufficient time, no useful purpose would be served in keeping the petitioner behind bars

Resultantly, without meaning 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 requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned on the following conditions:-

- 1. *he shall appear before the Court on each and every date of hearing;*
- 2. *he shall not give any threat or intimidation to the prosecution witnesses;*
- 3. *he shall not indulge in any criminal activity.*

The Court accepting bonds would ensure that two local sureties who are financially sound having immovable properties within jurisdiction of the district furnish the bonds.

In addition to that the trial Court may impose any term and condition found suitable to ensure that the petitioner does not abscond and interfere in the trial.

In case the petitioner violates any terms and conditions on which the bail has been granted to him, the prosecution would be entitled to apply for cancellation of his bail.

The petition is allowed.

(DEEPAK MANCHANDA)
JUDGE

22.03.2023
seema

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes /No</i>