

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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CRM-M-15897-2023

Date of Decision: 12.04.2023

Deen Dayal

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. Naveen Sharma, Advocate for the petitioner.

Mr. Jaspal Singh Guru, AAG, Punjab.

ASHOK KUMAR VERMA, J. (ORAL)

Custody certificate dated 11.04.2023, filed by learned counsel for the State is taken on record.

The petitioner has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No. 42 dated 04.04.2022 registered under Section 18/61 of the NDPS Act at Police Station Division No. 2, District Ludhiana.

As per prosecution story, on 04.04.2022, the aforesaid FIR was lodged on the basis secret information against the petitioner and his accomplices. Thereafter, the petitioner along with his accomplices, namely, Sarvesh, Vijay Singh and Deepak Kumar @ Babbu, was apprehended with conscious possession of 2 kgs. 600 gms. of opium, without any permit or licence in auto rickshaw bearing registration No. PB-10-DZ-4182.

Learned counsel for the petitioner, *inter alia*, contends that the

petitioner has falsely been implicated in the instant case. The recovery was effected from the auto-rickshaw and the petitioner was only the occupant. The contraband recovered from the petitioner and his co-accused is marginally above the 'non-commercial quantity'. He is not involved in any other case under the NDPS Act. The petitioner is in custody since the date of his arrest. Trial is likely to take time and no purpose will be served by keeping the petitioner in custody. More so, co-accused of the petitioner, namely, Deepak Kumar @ Babbu, Vijay Singh and Sarvesh Singh, have already been granted the concession of regular bail by this Court vide orders dated 16.01.2023 (Annexure P-2) and 27.03.2023, passed in CRM-M Nos. 63-2023, 36759 and 36434-2022, respectively. Thus, it is prayed that treating the case of the petitioner on the same parity as that of his co-accused, he may also be granted the concession of regular bail.

On the other land, learned State Counsel has vehemently opposed the submissions made by learned counsel for the petitioner. However, learned counsel for the State fairly conceded the fact that the petitioner is not involved in any other case under the NDPS Act.

I have heard learned counsel for the parties and carefully gone through the record.

Keeping in view the facts and circumstances of the case, the fact that alleged recovery of opium from the petitioner and his co-accused is marginally above the 'non-commercial quantity', also the fact that he is not involved in any other case under the NDPS Act and treating the case of the petitioner on the same parity as that of his co-accused, namely; Deepak Kumar @ Babbu, Vijay Singh and Sarvesh Singh, who are already

enlarged on bail, but without commenting on the merits of the case, I am of the considered view that the petitioner deserves the concession of regular bail.

Accordingly, the present petition is allowed and petitioner-Deen Dayal, is ordered to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate concerned.

However, the State will be at liberty to file application for cancellation of petitioner's bail, if he is found involved in any other case under the NDPS Act, during the period of bail.

12.04.2023

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**(ASHOK KUMAR VERMA)
JUDGE**

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No