

CRM-M-17761-2023(O&M)

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-17761-2023(O&M)
Date of decision:- 7.8.2023

Ashu
... Petitioner
Versus
State of Punjab
.. Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Ms.Rishma Verma, Advocate
for the petitioner.
Mr. A.P.S. Tung, DAG, Punjab.

SUVIR SEHGAL, J. (ORAL)

1. Instant petition has been filed under Section 439 Cr.P.C. seeking grant of post-arrest bail in:-

FIR No.	Dated	Police Station	Sections
33	28.1.2023	Special Task Force, STF(Wing), SAS Nagar	21(b)/29 of NDPS Act

2. Version of the prosecution is that FIR, Annexure P-1, has been registered on the basis of a secret information that Sahil @ Soni, Ishu @ Ladhar and a young boy, namely, Ashu, present petitioner, are standing opposite Babe Da Dhaba and selling heroin to customers. When the police party went to the spot, one of the boys threw a transparent polythene bag on the floor. All the three accused were apprehended.

3. Counsel for the petitioner contends that the recovery of 150 gms.

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of heroin was effected from the polythene bag, which falls within the category of intermediate quantity as per the notification issued under the NDPS Act. She urges that even as per the case of the prosecution, the polythene bag had been thrown by co-accused Ishu @ Ladhar, who has been released on regular bail by learned Additional Sessions Judge/Judge, Special Court, Jalandhar vide order dated 21.3.2023 (Annexure P2). She asserts that though two other criminal cases have been registered against the petitioner for the offence under NDPS Act but the petitioner has been released on bail in those cases and the quantity recovered from him was non-commercial. She submits that the petitioner, who is in custody since 31.1.2023, deserves to be enlarged on bail.

4. *Per contra*, State counsel has filed a short affidavit of DSP, Special Task Force, Jalandhar Range, District Jalandhar and has opposed the petition by arguing that the petitioner is a drug peddler and does not deserve the concession of regular bail. As per his instructions, charge has been framed on 1.7.2023 and no prosecution witness has been examined so far.

5. Having heard counsel for the parties and considering their respective submissions, this Court is prima facie of the view that the allegations levelled against the petitioner would remain a subject matter of determination before the trial Court. Noticing the quantity of the contraband allegedly recovered from the accused, length of the custody of the petitioner and the stage of trial, this Court is inclined to accept the prayer made in the petition.

6. Without adverting to the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered

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to be released on bail on furnishing adequate bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate, concerned.

7. While being released on bail, the petitioner shall furnish an undertaking by way of an affidavit that henceforth, he will not indulge in any illegal activity. In case the petitioner violates the undertaking, State shall be at liberty to seek cancellation of bail.

8. It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

7.8.2023
Brij

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No