

2023:PHHC:055419

**220 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-17709-2023

Date of Decision: 20.04.2023.

KAMAL KIRAT @ KAMAL

... PETITIONER

VS.

STATE OF HARYANA

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. V.B.Godara, Advocate, for the petitioner.
Mr. Surinder Kumar Dagar, DAG, Haryana.

VIVEK PURI, J.(ORAL)

1. The petitioner is seeking regular bail in the case bearing FIR No. 281 dated 04.12.2022 under Sections 15/29/31 of the NDPS Act registered at Police Station Sadar Tohana, District Fatehabad.

2. Custody certificate has been placed on record.

3. Briefly, the FIR has been registered in pursuance of recovery of 09.100 kg of poppy straw from the co-accused, namely, Umesh Kumar.

4. Learned counsel for the petitioner contends that the petitioner has been nominated on the basis of the disclosure statement of co-accused, who has stated that the contraband was to be sold to the petitioner. No recovery has been effected from the petitioner and Umesh Kumar, co-accused, has been granted default bail. The petitioner is in custody for a period of 02 months and 08 days. The petitioner is also involved in another case under NDPS Act but the said case pertains to the recovery of 9 grams of heroin and he is on bail in that case.

5. Learned State counsel has opposed the bail application on the score that the petitioner is also arraigned as an accused in another case under the NDPS Act.

6. Be that as it may, the other case pertains to recovery of 9 grams of heroin and the petitioner is stated to be on bail in that case. No recovery has been effected from the petitioner in the instant case and he has been nominated on the basis of the disclosure statement of the co-accused. The quantity of contraband alleged to have been recovered in the instant case falls in the category of less than commercial quantity and as such, the stringent provisions of Section 37 of the NDPS Act do not come into play. The challan has been presented. The case of the prosecution is based upon the statements of the official witnesses only. As such, it cannot be said that the petitioner can, in any manner, influence or win over the witnesses. The conclusion of trial is likely to take some time and no fruitful purpose will be served by detaining the petitioner in further custody.

7. In such circumstances, sufficient grounds are made out to extend the concession of bail to the petitioner. Accordingly, without making any observation on the merits of the case, the present petition is allowed and petitioner is ordered to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

20.04.2023
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(VIVEK PURI)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether Reportable	: Yes/No