

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

CRM-M-24835-2023

Date of Decision:-04.07.2023

Jitender Kumar @ Jeetu @ Jitender Raghav.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Ms. Vasundhara Dalal Anand, Advocate &
Ms. Priyanka Dalal, Advocate for the Petitioner.

Mr. Kanwar Sanjiv Kumar, Assistant Advocate General,
Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.243 dated 28.01.2023 under Sections 21(b) of Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Shivaji Nagar, District Gurugram.

2. The brief facts of the case are that while the police party was on patrolling duty a secret information was received that a young boy namely Jitender Kumar @ Jitu (petitioner) was indulged in selling of Narcotic Substances such as *Chitta*. The said boy would be coming with the substance in a Swift Car from Manesar side towards Gurugram. If a *nakabandi* was set up he could be apprehended along with Narcotic Substance. After complying with Section 42 of the NDPS Act a raiding party was formed and a barricade was set up on the road from Manesar to Gurugram. After sometime a Swift Car bearing No.HR55AF 5996 was

seen coming from Manesar side towards Gurugram. It was stopped and driver was nabbed who disclosed his name as Jitender Kumar @ Jitu. After complying with the mandatory provisions of search and seizure the recovery of 57.6 grams of *Chitta* (Heroin) came to be effected from him.

3. The Counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. There has been a violation of mandatory provisions of the Act regarding search and seizure. The vehicle in question belongs to one Ajit Kumar who has taken the same on superdari. Taking the allegations to be true the recovery was of non commercial quantity of contraband and, therefore the petitioner should be granted the concession of bail as the rigors of Section 37 of the NDPS Act do not apply to the present case. Even otherwise the petitioner was in custody since 28.01.2023. None of the 12 prosecution witnesses have been examined so far and he was a first time offender.

4. The Counsel for the State on the other hand has filed a reply dated 27.06.2023 by way of Affidavit of Assistant Commissioner of Police, City Gurugram in Court today, which is taken on record. He contends that the allegations against the petitioner are well established and the mandatory provisions of the Act regarding search and seizure have been duly complied with and therefore, the petitioner was not entitled to the concession of bail. He however concedes that the petitioner is in custody since 28.01.2023, is a first time offender, none of the 12 prosecution witnesses have been examined so far and that the recovery is of non commercial quantity of contraband.

5. I have heard the learned counsel for the parties.

6. Admittedly, the petitioner is a first time offender, stated to be in custody since 28.01.2023. None of the 12 prosecution witnesses have been

examined so far and therefore, the Trial of the present case is not likely to be concluded anytime soon. In this situation the further incarceration of the petitioner is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Jitender Kumar @ Jeetu @ Jitender Raghav** son of Sh. Satya Parkash @ Satparkas is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the present case.

9. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.50,000/- 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 the trial without sufficient cause.

10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

July 04, 2023
Vinay

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No