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2023 : PHHC : 079321

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-26897-2023

Date of Decision: 31.05.2023

PAWAN KUMAR

... PETITIONER

V/S

STATE OF HARYANA

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Vikas Bishnoi, Advocate for the petitioner.
Mr. Surinder Kumar Dagar, DAG Haryana.

* * *

VIVEK PURI, J. (ORAL)

1. Petitioner has prayed for grant of regular bail in case FIR No. 126 dated 09.03.2023, registered under Section 18C of Narcotic Drugs and Psychotropic Substances Act at Police Station Sadar Fatehabad, District Fatehabad.
2. Custody certificate has been taken on record.
3. As per the version of the prosecution, a secret information was received to the effect that the petitioner along with Sandeep Kumar, co-accused is carrying opium and accordingly, a *naka* was raised. The petitioner along with co-accused were apprehended. Sandeep Kumar, co-accused was driving the motor-cycle and the petitioner was holding a black-coloured polythene bag which contained 510 grams of opium.
4. Learned counsel for the petitioner contends that the quantity of contraband recovered in the instant case falls in the category of less than commercial quantity. The petitioner is in custody for a period of 2 months and 21 days and not involved in any other case. Furthermore, the co-accused who was accompanying the petitioner has been granted regular bail in terms of the order dated 05.05.2023 passed in CRM-M-21777-2023.

5. Learned State counsel has opposed the bail application on the score that the petitioner along with the co-accused was found in joint conscious possession of the contraband. The petitioner was carrying the polythene bag containing contraband while sitting on the pillion of the motor-cycle being driven by the co-accused.

6 Be that as it may, the quantity of contraband recovered in the instant case falls in the category of less than commercial quantity. As such, stringent provisions of Section 37 of the NDPS Act are not attracted in this case. The co-accused who was driving the motor-cycle has been released on bail. The petitioner is in custody for a period of 2 months and 21 days and is not involved in any other case. The custodial interrogation of the petitioner is over and he has been remanded to judicial custody. The conclusion of investigation and trial is likely to take some time and no fruitful purpose would be served by detaining the petitioner in further custody.

7. As such, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner. Therefore, without making 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 fresh bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

8. The petition is allowed.

31.05.2023

Janki

(VIVEK PURI)
JUDGE