

CRM-M-30525-2023
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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-30525-2023 (O & M)
Date of decision: 10.10.2023

Anil Kumar Petitioner

V/s

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Raman Chawla, Advocate,
for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in case FIR No.1204 dated 01.10.2022 under Sections 21(c)/61/85 of the NDPS Act registered at Police Station Hisar, District Hisar.

2. The brief facts of the case are that while the police party was on patrolling duty, secret information was received that Anil Kumar (petitioner) was travelling from Delhi to Hisar in a Taxi/car bearing No.DL 1ZC 5663, Make Hundai Xcent to supply heroin. If a raid was conducted, he could be apprehended with the contraband.

Based on the said information, a car was stopped. The person sitting on the driver seat, on seeing the police party in front suddenly tried to run away by opening the door of his taxi but was apprehended. On being

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asked, he disclosed his named as Anil Kumar. The recovery of 255 grams of heroin came to be effected from him.

Thereafter, the instant FIR No. 1204 dated 01.10.2022 under Sections 21(c)/61/85 of the NDPS Act, Police Station Sadar Hisar, District Hisar, came to be registered.

3. The learned counsel for the petitioner contends that in the instant case, the recovery was of 255 grams of heroin, which was marginally above the commercial quantity of 250 grams. As the petitioner was a first-time offender, in custody since 01.10.2022 and none of the 29 prosecution witnesses had been examined so far, he was entitled to the concession of bail.

4. The learned counsel for the State, on the other hand, contends that as commercial quantity of contraband had been recovered from the petitioner, he was not entitled to the concession of bail. He, however, concedes that the petitioner is a first-time offender, in custody since 01.10.2022 and none of the 29 prosecution witnesses have been examined so far.

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

6. In the cases of 'Pardeep Singh versus State of Punjab, CRM-M-46244-2022 decided on 19.01.2023, Sukhchain Singh @ Manga Versus State of Punjab, CRM-M-7857-2022 decided on 04.04.2022, Hari Yadav @ Haiya versus State of Punjab (CRM-M-37645-2021)' decided on 11.11.2022, 'Jang Kanwar Versus State of Punjab (CRM-M-53415-2021)' decided on 19.01.2022, 'Shankar Prashad Chanau Versus The State of Punjab, CRM-M-24090-2020, decided on 27.08.2020, Gurpreet Kumar

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Versus State of Punjab, CRM-M-17021-2021, decided on 31.08.2021, Salim Versus State of Haryana, CRM-M-42436-2020, decided on 24.02.2021, Gagandeep Versus State of Punjab, CRM-M-3055-2021, decided on 27.01.2021, Gurpreet Singh @ Gopi Versus State of Punjab, CRM-M-41039-2019, decided on 26.02.2020, Dalbara Singh Versus State of Punjab, CRM-M-47880-2022 decided on 16.01.2023', and Vivek Watts versus State of Punjab, CRM-M-13791-2022 decided on 15.02.2023',

where the recovery from the accused was marginally above the commercial quantity for the respective contraband in each case, the Court granted bail to the accused therein.

7. In the instant case, the recovery is of 255 grams of heroin which is marginally above the commercial quantity of 250 grams. The petitioner is a first-time offender, in custody since 01.10.2022 and none of the 29 prosecution witnesses have been examined so far. In such a situation, the provisions of Section 37 of the NDPS Act can be relaxed to an extent and the case of the petitioner can be considered for the grant of bail.

8. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner-Anil Kumar is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. The petitioner shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that he is not involved in any crime other than the case(s) mentioned in this order.

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10. In addition, the petitioner (or someone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- 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 trial without sufficient cause.

(JASJIT SINGH BEDI)
JUDGE

October 10, 2023
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No