

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

210

CRM-M-35528-2022

Date of decision: 21.03.2023

Eboinshi Deshmond Chinaja @ Shaddy

....Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Sunil Saharan, Advocate
for the petitioner.

Mr. Dhruv Sihag, AAG, Haryana.

AMAN CHAUDHARY. J.

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in respect of FIR No. 147 dated 17.04.2022 under Section 29(b) of NDPS Act (Section 27A of the NDPS Act, 1985, Section 14A of the Foreigners Act, 1946 and Section 12C of the Passport Act, 1967 added later on) registered at Police Station Hansi Sadar, Police District Hansi, District Hansi.

Learned counsel contends that the petitioner has been in custody for the last 11 months having been arrested on 19.04.2022. Allegedly, 24 gms of Heroin was recovered from the co-accused Sahil which falls in non-commercial quantity as per schedule in the NDPS Act. The name of the petitioner has been surfaced based on the disclosure statement of the aforesaid co-accused. He relies on the judgments passed by Hon'ble the Supreme Court of India in the cases of **Toofan Singh Vs. State of Tamil Nadu**, 2021 (1) RCR (Criminal) 1 and **Subodh**

Kumar Sagar @ Subodh Kumar Sah Vs. The State of Bihar, CrI. Misc. No. 29907 of 2022. Challan was presented on 15.06.2022 whereafter charges were framed on 18.07.2022 and there are 17 prosecution witnesses out of which only 4 have been examined. He is not involved in any other case.

Learned State counsel opposes the bail on the ground that the petitioner is a foreign national and does not have proper permanent address and there are chances of him fleeing from justice. However, he is unable to controvert the other submissions with regard to custody, stage of the trial, the petitioner being not involved in any other case and his name has been surfaced based on the disclosure statement of the co-accused.

Heard.

In view of the facts and circumstances of the case, the aforesaid judgments and in particular that the petitioner has been in custody for the last 11 months; he is not involved in any other case; there are 17 prosecution witnesses out of whom, only 4 have been examined as yet; the trial is likely to take a considerable time, his further detention behind bars would not serve any useful purpose, thus the present petition for grant of regular bail deserves to be allowed.

As a result, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to his not being required in any other case. The petitioner shall abide by the following conditions:-

1. The petitioner will not tamper with the evidence during the trial.
2. The petitioner will not pressurize/ intimidate the prosecution witnesses.

- 3. The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
- 4. The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.
- 5. The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/ her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.
- 6. The petitioner shall not in any manner misuse his liberty.
- 7. The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.
- 8. The petitioner shall deposit his passport, if any, with the Trial Court forthwith and in case, she does not have the passport, she shall furnish a specific affidavit in this regard.

It is made clear that in case of any infraction of any of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

In view of the above, this Court makes it clarified that the observations made herein above are limited for the purpose of present proceedings and would not be construed as any opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AMAN CHAUDHARY)
JUDGE

21.03.2023

Mehak	Whether speaking/reasoned	:	Yes/No
	Whether reportable	:	Yes/No