

CRM-M-39545-2023 -1-

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(225) CRM-M-39545-2023
Date of decision:- 21.08.2023

Lakhan ... Petitioner
Versus
State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. V.B.Godara, Advocate
for the petitioner.

Mr. Ramender Singh Chauhan, AAG, Haryana.
for State-respondent.

SUVIR SEHGAL, J. (ORAL)

1. Instant petition has been filed under Section 439 Cr.P.C. seeking grant of post-arrest bail in:-

FIR No.	Dated	Police Station	Sections
215	25.06.2022	Bhuna, District Fatehabad	21 (b), 27-A and 29 of the NDPS Act.

2. Version of the prosecution is that FIR, Annexure P-1, has been registered when during routine patrolling, two boys, who were riding on a motorcycle, panicked on spotting the police team. Suspecting foul play, they were intercepted and recovery of 6.50 grams of heroin and cash of Rs.500/- was effected from them. The boys identified themselves as Moni and Naseeb.

3. Counsel for the petitioner contends that no recovery has been effected from the petitioner and he has been arraigned as an accused on the basis of disclosure statement of the named accused. He submits that both the accused, Moni and Naseeb, have been released on regular bail by orders Annexures P-3 and P-4, respectively. He asserts that as the quantity recovered from the co-accused is non-commercial, bar under Section 37 of the NDPS Act is not attracted. Counsel submits that although the petitioner is named as an accused in two other cases registered under the NDPS Act, but in both those cases, the quantity of contraband involved is non-commercial and the petitioner is on bail.

4. *Per contra*, State counsel, upon instructions from SI, Mahender Singh, submits that the petitioner is the supplier of the contraband. He has opposed the petition by stressing upon his criminal past, though he could not dispute that in the third criminal case against the petitioner, he has been acquitted.

5. I have heard counsel for the parties and considered their respective submissions.

6. Undisputedly, no recovery of any contraband has been effected from the petitioner. Although, petitioner is involved in two other criminal cases, but that cannot be a hindrance in considering his request in the present case. Noticing the period of incarceration, which by now more than seven months, the stage of the proceedings before the Trial Court as the charge is yet to be framed, this Court unhesitatingly accepts the prayer made in the petition.

7. Without adverting to the merits or demerits of the arguments addressed by counsel for the parties, petition is allowed. Petitioner is ordered to be released on bail on furnishing adequate bail/surety bonds to the satisfaction of the Area Magistrate/Duty Magistrate/Trial Court concerned.

8. It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

21.08.2023

Kamal

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No