

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-43624-2022
Date of Decision:-**13.01.2023**

SEBI ALIAS SEWAK

... Petitioner

Versus

STATE OF HARYANA

... Respondent

-.-

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

-.-

Present:- Mr. Kartar Singh, Advocate
for the petitioner.

Mr. Vishal Kashyap, DAG, Haryana.

-.-

KARAMJIT SINGH, J. (Oral)

The petitioner has approached this Court seeking grant of regular bail in a case having FIR No.168 dated 27.6.2022 registered under Sections 21(b) and 29 of NDPS Act at Police Station Ratia District Fatehabad.

The counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case which is registered by the police alleging that 51.55 grams of heroin was recovered from co-accused Rinku while both of them were travelling on motorcycle driven by the petitioner. The counsel for the petitioner further submits that no

contraband was recovered from the conscious possession of the petitioner. The counsel for the petitioner further submits that the earlier also petitioner was falsely involved in one case relating to recovery of 5.25 grams of heroin, in which he has been enlarged on bail and that the petitioner is behind bars for the last more than 6 months and it will take considerable time for the trial to conclude as the same is yet to commence.

The instant petition is resisted by the State counsel, who on instructions from ASI Chiman Lal submits that the petitioner is habitual offender and earlier also 5.25 grams of heroin was recovered from his possession and he is facing trial in the said case. However, the State counsel has not disputed the fact that in the instant case no recovery was effected from the petitioner who was driving the motorcycle while recovery of 51.55 grams of heroin was effected on the personal search of pillion rider namely Rinku and that the petitioner is already enlarged on bail in the another case faced by him under the NDPS Act.

I have considered the submissions made by counsel for the parties.

The present case is related to recovery of 51.55 grams of heroin that too on the personal search of co-accused Rinku who was riding on a pillion seat of the motorcycle driven by the petitioner. The aforesaid contraband comes under non-commercial quantity and thus the embargo provided under Section 37 of NIDPS Act is not applicable in the present case. In the another case faced by the petitioner, he already stands enlarged on bail. Further after completion of investigation, the police has presented the challan but charges are yet to be framed and the petitioner is incarcerated

for the last 6 months and it will take time for the trial to conclude, so no purpose is going to be served by keeping the accused behind the bars for any longer period.

Thus without commenting on the merits of the case, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail and surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate concerned.

13.01.2023
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No