

CRM-M-43452-2023

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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

(222)

CRM-M-43452-2023
Date of decision:- 06.09.2023

Shardool Vikram

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Ms. Kamlesh, Advocate for
Mr. S.K. Agnihotri, Advocate for the petitioner.

Mr. A.P.S.Tung, DAG, Punjab for State-respondent.

SUVIR SEHGAL, J. (ORAL)

1. Instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 seeking grant of post-arrest bail in:-

FIR No.	Dated	Police Station	Section
108	21.06.2023	GRP, Ludhiana	18 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short “the Act”)

2. Facts leading to the filing of the petition are that FIR, Annexure P-1, has been registered when on suspicion, a passenger was checked at the Railway Station, Ludhiana and was found to be in possession of 1 kg 500 grams of opium in the carry bag.

3. Counsel for the petitioner submits that the petitioner has been falsely implicated and the recovery as alleged was never effected from him. She submits that the mandatory provisions of the Act have not been complied with at the time of search and seizure. In any case, she submits

that as the recovery effected from the petitioner falls in the non-commercial category, he deserves to be granted the benefit of bail.

4. *Per contra*, learned State counsel, upon instructions received from ASI, Daljinder Singh, has opposed the petition. He has filed Custody Certificate dated 05.09.2023, which is taken on record, and could not dispute that the petitioner has clean antecedents. He has instructions to state that on conclusion of investigation, challan has been presented, but charge has not been framed.

5. Having considered the submissions made by counsel for the parties, this Court is *prima faice* of the view that as the recovery effected from the petitioner falls within the intermediate quantity, bar under Section 37 of the Act will not apply. Petitioner has clean antecedents and is in custody for the last more than 2 ½ months. Trial is yet to start, therefore, petitioner deserves the concession of bail.

6. Without adverting to the merits or demerits of the arguments addressed, 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.

7. 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

06.09.2023

Kamal

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