

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

220

CRM-M-49439 of 2022

Date of Decision:19.01.2023

Satish

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Amit Sharma, Advocate, for the petitioner.

Ms. Nidhi Garg, AAG, Haryana

JASGURPREET SINGH PURI, J. (Oral)

This is a second petition filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.446 dated 23.08.2021, under Sections 21-b of the NDPS Act, registered at Police Station Hisar City, District Hisar.

It has been submitted by the learned counsel for the petitioner that the petitioner is in custody for 1 year, 4 months and 27 days and 7 prosecution witnesses have already been examined. He submitted that the allegation against the petitioner was with regard to recovery of 17.45 grams of heroin and the petitioner has been falsely implicated in the present case only because of the reason that he is also facing trial in some other cases under the NDPS Act. He submitted that considering the alleged recovery from the petitioner which does not fall within the category of commercial quantity and the custody of the petitioner, he may be considered for the grant of regular bail.

On the other hand, Ms. Nidhi Garg, learned AAG, Haryana has

opposed the grant of regular bail on the ground that although the recovery was not commercial under the NDPS Act but the petitioner is a habitual offender. So far as the period of custody of the petitioner is concerned, the same is correct and it is also correct that the 7 prosecution witnesses have already been examined.

I have heard the learned counsel for the parties.

This Court is of the view that the petitioner has already faced incarceration for 1 year, 4 months and 27 days and the alleged recovery of heroin was only 17.45 grams from the petitioner. The said quantity does not fall within the category of commercial quantity and the mere fact that the petitioner is involved in some more cases under the NDPS Act cannot become a ground for denial of the bail to the petitioner considering the total custody of the petitioner.

Therefore, considering the aforesaid peculiar facts and circumstances and especially the long custody of the petitioner, this Court deems it fit and proper to grant the regular bail to the petitioner. Consequently, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned, if not required in any other case.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of the present petition.

(JASGURPREET SINGH PURI)
JUDGE

January 19, 2023
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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No