

(220) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-50026-2022

Date of Decision: 11.01.2023

RAVI KANT

... Petitioner

Versus

U.T. CHANDIGARH

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. G.S. Sandhu, Advocate
for the petitioner.

Mr. A.M. Punchhi, P.P. U.T., Chandigarh.

JASJIT SINGH BEDI, J.

The petitioner seeks the grant of regular bail under Section 439 Cr.P.C. in case bearing FIR No.30 dated 25.03.2022 registered under Section 20 NDPS Act, 1985 at Police Station Sector-11, Chandigarh.

2. The brief facts of the case are that while the police party was on patrolling duty for prevention of crime of theft and snatching and was present near Sector-11, Market and patrolling on foot, then at about 06.50 PM, when the SI reached near the under bridge, he saw one person coming from inside the under bridge holding a bag on his shoulders. On seeing the police party, he got perplexed and tried to walk away fast. He was apprehended on suspicion and disclosed his name as Ravi Kant (petitioner). On search the recovery of 1 kg 25 grams *Charas* was effected from him.

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. The mandatory provisions of Section 50 of the NDPS Act have not been complied with. There is a violation

of Section 42 of the NDPS Act as well. The recovery from the petitioner is of 01 kg 25 grams of *Charas* including the weight of the polythene bag and therefore as the recovery was of contraband marginally above the commercial quantity which was 01 kg *charas*, the petitioner was entitled to the grant of bail, moreso, when he was a first-time offender with no other case registered against him. He places reliance on the judgments in the case of *Shankar Prashad Chanau Versus The State of Punjab, CRM-M-24090-2020, decided on 27.08.2020*, *Gurpreet Kumar Versus State of Punjab, CRM-M-17021-2021, decided on 31.08.2021*, *Hari Yadav @ Hariya Versus State of Punjab, CRM-M-37645-2021, decided on 11.02.2022*, *Jang Kanwar Versus State of Punjab, CRM-M-53415-2021, decided on 19.01.2022*, *Sukhchain Singh @ Manga Versus State of Punjab, CRM-M-7857-2022, decided on 04.04.2022*, *Salim Versus State of Haryana, CRM-M-42436-2020, decided on 24.02.2021*, *Gagandeep Versus State of Punjab, CRM-M-3055-2021, decided on 27.01.2021* and *Gurpreet Singh @ Gopi Versus State of Punjab, CRM-M-41039-2019, decided on 26.02.2020*.

4. On the other hand, the learned State counsel contends that commercial quantity of contraband has been recovered from the petitioner and as such, he was not entitled to the grant of bail in view of Section 37 of the NDPS Act. He, however, does not deny the fact that the petitioner is a first-time offender and the recovery is marginally above the commercial quantity.

5. I have heard the learned counsel for parties at length.

6. In case of *Shankar Prashad Chanau* (supra) wherein the recovery was of 1 kg 100 grams of *charas*, the petitioner therein was granted the concession of bail.

Similarly, in the case of *Gurpreet Kumar Versus State of Punjab, CRM-M-17021-2021, decided on 31.08.2021, Hari Yadav @ Hariya Versus State of Punjab, CRM-M-37645-2021, decided on 11.02.2022, Jang Kanwar Versus State of Punjab, CRM-M-53415-2021, decided on 19.01.2022, Sukhchain Singh @ Manga Versus State of Punjab, CRM-M-7857-2022, decided on 04.04.2022, Salim Versus State of Haryana, CRM-M-42436-2020, decided on 24.02.2021, Gagandeep Versus State of Punjab, CRM-M-3055-2021, decided on 27.01.2021* and *Gurpreet Singh @ Gopi Versus State of Punjab, CRM-M-41039-2019, decided on 26.02.2020*, where the recovery was of contraband marginally above the commercial quantity bail was granted to the petitioners therein.

7. Since the recovery from the petitioner is of 1 kg 25 grams of *charas* which is marginally above the commercial quantity of 1 kg, none of the 16 prosecution witnesses had been examined so far and the petitioner is a first-time offender, the further incarceration of the petitioner is not required.

8. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Ravi Kant is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

9. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in

writing each time that he is not involved in any other crime other than the present case.

10. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

11.01.2023

JITESH

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