

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

[225]

CRM-M-52206-2022

Date of decision: 15.02.2023

MONU

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. B.S. Bhalla, Advocate
for the petitioner.

Mr. Kamalpreet Bawa, AAG Punjab.

AMAN CHAUDHARY. J.

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in respect of FIR No.28 dated 09.02.2019, under Sections 21 & 22 of the NDPS Act, 1985 registered at Police Station City Moga, District Moga.

Learned counsel for the petitioner contends that the petitioner is in custody since 30.07.2022. The alleged recovery effected from the petitioner is non-commercial quantity of contraband as per schedule of NDPA Act and he is not involved in any other case under the NDPS Act. He further contends that the petitioner was initially granted regular bail vide order dated 06.04.2019 by the learned trial Court and he was thereafter regularly appearing before the trial Court except on 07.04.2021 on which date, he was unable to appear on account of the fact that due to restricted hearing at the time of Covid-19 Pandemic and he too was also a corona positive. Charges have been framed in this case and out of total of 10 prosecution witnesses, only one has yet been examined.

Learned State counsel has produced the custody certificate dated 15.02.2023, which is taken on record. As per the same the custody of the petitioner is 09 months and 01 day. He, on instructions from ASI Rajesh Kumar, opposes the bail on the ground that the alleged contraband was recovered from the petitioner and he was arrested at the spot. However, he is unable to controvert the submissions made by learned counsel for the petitioner regarding the alleged recovery from the petitioner being non-commercial, his custody, and he is not involved in any other case under the NDPS Act and the stage of trial.

Heard.

In view of the facts and circumstances of the case and, in particular that the petitioner is in custody for last 09 months and 01 day; he not being involved in any other case under the NDPS Act; contraband allegedly recovered is non-commercial in nature; therefore, rigors of Section 37 of NDPS Act are not attracted in the present case; only one witness has yet been examined, out of 10 prosecution witnesses; the trial is likely to take a considerable time, his further detention behind bars would not serve any useful purpose, thus the present petition for grant of regular bail deserves to be allowed.

As a result, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to him not being required in any other case. The petitioner shall abide by the following conditions:-

1. The petitioner will not tamper with the evidence during the trial.
2. The petitioner will not pressurize/ intimidate the prosecution witnesses.
3. The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.

- 4. The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.
 - 5. The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/ her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.
 - 6. The petitioner shall not in any manner misuse his liberty.
 - 7. The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.
 - 8. The petitioner shall deposit his passport, if any, with the Trial Court forthwith and in case, he does not have the passport, he shall furnish a specific affidavit in this regard.
- It is made clear that in case there is any breach of the aforesaid

conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

In view of the above, this Court makes it clarified that the observations made herein above are limited for the purpose of present proceedings and would not be construed as any opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

[AMAN CHAUDHARY]
JUDGE

February 15, 2023
ANJAL

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