

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

225

CRM-M-52774-2022
Date of decision: 02.03.2023

VIKAS KUMAR

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Kamal Narula, Advocate
for the petitioner.

Mr. Manipal Singh Atwal, DAG, 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. 123 dated 21.10.2022 under Section 20 of the NDPS Act, 1985 registered at Police Station Khuian Sarwar, District Fazilka.

Learned counsel contends that the petitioner has been in custody for the last 4 months and 09 days having been arrested on 21.10.2022. The quantity of contraband recovered from him is non commercial in nature as per the schedule in the NDPS Act being 2 Kgs of *ganja*. Charges have been framed, however, there are a total of 14 prosecution witnesses, but none has been examined. He is not involved in any other case under the NDPS Act.

Learned State counsel has filed custody certificate which is taken on record, confirming the custody to be of 4 months and 09 days. He opposes the bail on the ground that he was apprehended at the spot with the contraband that has been recovered from the petitioner. However, he is unable to controvert the other

submissions made by learned counsel for the petitioner in particular with regard to to the fact of recovery effected from him being non commercial, custody and stage of the trial and that he is not involved in any other case under the NDPS Act.

Heard.

In view of the abovesaid facts and circumstances of the case, in particular that the petitioner has been in custody for the last 4 months and 09 days; recovery effected from him is non-commercial, therefore, rigors of Section 37 of NDPS Act are not attracted in the present case; he is not involved in any other case under the NDPS Act; charges have been framed; in all, there are a total of 14 prosecution witnesses but none has been examined yet; the trial is likely to take sufficiently long 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 of any infraction of any 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

02.03.2023
Mehak

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