

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-55362-2022

Date of Decision: 11.01.2023

Rohit @ Kala

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. L.S. Sidhu, Advocate for the petitioner.

Mr. Gaurav Bansal, Assistant Advocate General, Haryana.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioner has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No. 430 dated 09.08.2022 registered under Sections 21(b) and 29 of the NDPS Act (Section 27A of the NDPS Act was added subsequently) at Police Station City, Fatehabad, District Fatehabad.

As per prosecution story, on 09.08.2022, on the basis of secret information, the police party headed by ASI Richhpal Singh, jointly apprehended the petitioner and his co-accused, namely, Samsudin @ Raju and Mangaljeet Singh @ Chepi. On search, 30 grams of heroin was recovered from the footrest of the scooty being driven by the petitioner-Rohit @ Kala and co-accused-Mangaljeet Singh @ Chepi, who disclosed that the recovered contraband was purchased by them from co-accused-Samsudin @ Raju. On personal search of co-accused-

Samsudin @ Raju, Rs.27,000/- were also recovered. The recovered contraband and currency notes worth Rs.27,000/- were taken into police possession, in accordance with law.

Learned counsel for the petitioner, *inter alia*, contends that the petitioner has falsely been implicated in the instant case. The contraband recovered from the petitioner and his co-accused falls under the category of 'non-commercial quantity'. After completion of investigation, challan has already been presented before the trial Court and the next date before the trial Court is 13.01.2023, for framing of charge. However, FSL report has not been filed so far. The petitioner is in custody since 09.08.2022. Trial is likely to take time and no purpose will be served by keeping the petitioner in custody. Co-accused of the petitioner, namely; Samsudin @ Raju and Mangaljeet Singh @ Chepi, have already been granted regular bail by this Court vide order dated 10.01.2023, passed in CRM-M Nos. 46286 and 49973-2022. Thus, treating the case of the petitioner on the same parity as that of his co-accused, he may also be granted the concession of regular bail.

On the other hand, learned State Counsel has vehemently opposed the submissions made by learned counsel for the petitioner. However, learned State counsel fairly conceded the fact that the FSL report has not been received as yet.

I have heard learned counsel for the parties.

Keeping in view the facts and circumstances of the case, the fact that the alleged recovery of heroin from the petitioner and his

co-accused is an intermediate quantity and the fact that FSL report has not been filed so far, but without commenting on the merits of the case, I am of the considered view that the petitioner deserves the concession of regular bail.

Accordingly, the present petition is allowed and the petitioner-Rohit @ Kala, is ordered to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate concerned.

State will be at liberty to file application for cancellation of petitioner's bail, if he is found involved in any other criminal activity, during the period of bail.

January 11, 2023
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(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned ***Yes/No***

Whether Reportable ***Yes/No***