

224/2 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-53865-2023

Date of Decision:03.11.2023

Nikhil Kumar

...Petitioner

vs.

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Kulwinder Singh Dhillon, Advocate, for the petitioner.

Mr. Mohit Chaudhary, AAG, Punjab.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail to him in case FIR No.0061 dated 12.06.2023 registered under Sections 21-B, 27-A, 29 of NDPS Act 61 of 1985 and Section 25 of Arms Act 54 of 1959, at Police Station Sadar Gurdaspur, District Gurdaspur.
2. As per case of the prosecution, 15 grams of heroin and Rs.99,400/- i.e. drug money were recovered from the present petitioner.
3. Learned counsel for the petitioner contends that the petitioner has been falsely involved in the present case due to some dispute with police officials over a trivial issue and 15 grams of heroin was planted on him. Learned counsel further contends that the alleged recovery of 15 grams of heroin falls within the ambit of "small quantity" as per the schedule appended to the NDPS Act. He further contends that the mandatory provisions relating to the search and seizure have not been complied with, by the police in the present

case. Learned counsel further contends that he was arrested in the present case on 12.06.2023 and is in custody for the last more than 04 months. He next contends that investigation in the present case is almost complete and the petitioner is entitled to grant of regular bail.

4. On the other hand, learned State counsel has vehemently opposed the prayer made by learned counsel for the petitioner on the ground that there is specific allegations against the petitioner.

5. I have heard learned counsel for the parties and perused the record.

6. It is not in dispute that the petitioner is in custody since last four months and the alleged recovery of 15 grams of heroin from the present petitioner falls within the ambit of “small quantity”.

7. Without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned.

03.11.2023
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(N.S.SHEKHAWAT)
JUDGE

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