

213 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-57741-2022
Date of Decision: 17.04.2023

Yograj

...Petitioner

V/S

UT, Chandigarh

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. A.P. Kaushal, Advocate
for the petitioner.

Mr. V.S. Mahal, Addl. P.P. U.T. Chandigarh.

DEEPAK MANCHANDA J. Oral

Instant petition has been filed under Section 439 Cr.P.C. seeking regular bail in the case bearing FIR No.110 dated 05.09.2022 registered under Section 20 of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Manimajra, Chandigarh.

Brief facts of the case are that the petitioner has been arrested on the basis of chance recovery having 510 grams of charas along with transparent polythene and thereby apprehending the accused along with co-accused from whom 500 grams of charas was recovered separately. On these allegations, the present FIR was registered.

Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case as police did not bother to appraise the petitioner of his legal rights and no notice under Section 50 of the Narcotic Drugs and Psychotropic Substances Act was served upon him for searching him before any Gazetted officer. The entire

process is vitiated as the search is not done in accordance with the procedure laid down under Section 50 of NDPS Act. He further contends that the recovery are made separately from both the accused and cannot be clubbed together to bring them to the ambit of commercial quantity whereas from the petitioner 510 grams of charas has been recovered which is a non-commercial quantity. He further refers to Annexure A-1 annexed with the petition, which is a test memo form dated 15.09.2022 where the recovery of 510 grams of charas have been shown to be effected from the petitioner and as on today no other case is pending against the petitioner. He further submits that in present case challan has been presented and the charges have also been framed where no prosecution witness has been examined so far and trial will taken long time to commence.

On the other hand, learned State Counsel on instructions from Investigating Officer has opposed the aforesaid prayer on the ground that the petitioner has committed a serious crime and the quantity falls under the commercial category, however, does not dispute that challan stands presented and charges have been framed but no prosecution witness has been examined so far.

Having heard learned counsel for the parties and gone through the case file and custody certificate filed by learned State counsel, it is significant to note that even in the test memo dated 15.09.2022 the recovery of 510 grams have been shown to be effected from the petitioner which is a non-commercial quantity. Further, the

investigation of the case has also been completed and challan stands presented. Therefore, no useful purpose would be served by keeping the petitioner in further incarceration.

As such, sufficient mitigating circumstances are made out to extend the concession of bail to the petitioner. Therefore, without making any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the concerned trial Court/Chief Judicial Magistrate/Duty Magistrate.

The petition is allowed.

17.04.2023
sapna

(DEEPAK MANCHANDA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>