

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

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CRM-M-58731-2022 (O&M)

Date of decision: 07.08.2023

Sahil Kumar @ Shelly

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Amit Gupta, Advocate for the petitioner

Mr. H.S. Sullar, Sr. DAG Punjab

AMAN CHAUDHARY, J.

1. Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.189 dated 17.10.2022, registered under Sections 21, 21(b), 27 (a) and 29 of NDPS Act, 1985 at Police Station Dinanagar, District Gurdaspur, Punjab.

2. Learned counsel contends that the petitioner is in custody for the last about 10 months. The alleged recovery from the petitioner is from a polythene bag containing non-commercial quantity of contraband, it being 6 grams of heroin. The petitioner is not involved in any other case under the NDPS Act. Charges have been framed on 26.04.2023, however, out of 11 prosecution witnesses, none have been examined.

3. The custody certificate dated 07.08.2023 has been filed by learned State counsel, as per which, the petitioner is behind bars for the last 9 months and 23 days.

4. Learned State counsel opposes the bail on the ground that the contraband in question was recovered from him. He is however unable to controvert the submissions with regard to stage of case, quantity recovered being non-commercial and the petitioner is not involved in any other case under the NDPS Act.

5. Heard.

6. Considering the facts and circumstances of the case, in particular that the petitioner is in custody for the last 9 months and 23 days; not involved in any other case under the NDPS Act; non-commercial quantity of contraband has been recovered from him, therefore, rigors of Section 37 of NDPS Act are not attracted in the present case; charges stand framed on 26.04.2023, however, none out of the 11 prosecution witnesses, has yet been examined, the trial is likely to take a considerable time, thus his further incarceration would not serve any useful purpose, the present petition for grant of regular bail deserves to be allowed.

7. 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 his not being required in any other case. The petitioner shall abide by the following conditions:-

- (i) The petitioner will not tamper with the evidence during the trial.
- (ii) The petitioner will not pressurize/ intimidate the prosecution witnesses.
- (iii) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
- (iv) 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.

- (v) 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.
- (vi) The petitioner shall not in any manner misuse his liberty.
- (vii) 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.
- (viii) The petitioner shall not leave the country without prior permission of the trial Court.
- (ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.

8. It is made abundantly 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.

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

(AMAN CHAUDHARY)
JUDGE

August 07, 2023
M.Kamra

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