

231 **IN THE HIGH COURT OF PUNJAB AND HARYANA**
AT CHANDIGARH

CRM-M-18643-2024

Date of Decision: 23.04.2024

Amrik Chand @ Soni @ Amreek Chand

...Petitioner

vs.

State of Punjab

...Respondent

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

Present : Mr. Manoj R. Sharma, Advocate, for the petitioner.

Mr. Deepinder Singh Brar, Senior DAG, 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 in case FIR No.226 dated 13.12.2023 registered under Sections 21(b) & 27-A of NDPS Act, at Police Station Dinanagar, District Gurdaspur.

2. Learned counsel for the petitioner contends that the petitioner has been falsely involved in the present case by the police by planting 6 grams of heroin and Rs.3,500/- on him. Even otherwise, as per the schedule appended to the NDPS Act, the quantity of contraband, which was allegedly recovered from the present petitioner, was non-commercial in nature and the rigors of Section 37 of NDPS Act would not apply to the facts of the present case. Learned counsel further contends that during the course of investigation, the mandatory provision of Sections 42 and 50 of NDPS Act were not complied by the police and only on this ground alone, the petitioner deserves to be enlarged on bail.

Learned counsel further contends that the petitioner was arrested in the present case on 13.12.2023 and is in custody since then.

3. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that the petitioner has been specifically named in the FIR and 11 more cases have been ordered to be registered against the present petitioner. However, he admits that the quantity of contraband recovered from the present petitioner was non-commercial in nature.

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

5. 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, subject to the following conditions:-

(i) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.

(ii) The petitioner shall remain present before the Court on the dates fixed for hearing of the case.

(iii) The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.

(iv) The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.

(v) The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and

number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.

- (vi) In case, the petitioner involves in any other criminal activity, during the pendency of the trial, it shall be viewed seriously.
- (vii) The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bails bonds and surety bonds of the petitioner.
- (viii) The petitioner shall report every 1st Monday in English calander month to the concerned SHO till the conclusion of the trial and SHO shall mark his presence by making an entry in the rojnamcha. In case, he does not report on every 1st Monday to the concerned SHO, it shall be viewed seriously and the concession granted to him shall be liable to be cancelled and the State of Punjab shall be at liberty to move an appropriate application in this regard.

23.04.2024.
hemlata

(N.S.SHEKHAWAT)
JUDGE

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