



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

CRM-M-27050-2024

Date of Decision:-31.07.2024

Shailender.

.....Petitioner.

Versus

State of Haryana.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Johan Kumar, Advocate for the Petitioner.

Mr. Deepak Grewal, Deputy Advocate General, Haryana.

JASJIT SINGH BEDI, J. (ORAL)

The prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in FIR No.737 dated 19.10.2023 under Sections 20 & 29 of the NDPS Act, registered at Police Station Palla, Faridabad, District Faridabad.

2. The brief facts of the case are that Guddu @ Virender, Subey, Amar Singh and Shailender (petitioner) came to be apprehended with 10.390 Kg, 10.790 Kg, 10.760 Kg and 10.500 Kg of Ganja respectively. During interrogation they disclosed the name of Ram Partap @ Guddu Singh.

3. The learned counsel for the petitioner contends that only 10.500 Kgs of Ganja had been recovered from the petitioner which was less than the commercial quantity. The recovery from the co-accused Guddu @ Virender, Subey and Amar Singh could not be added to the recovery from the



petitioner as in each case the recovery was effected from bags being separately carried by the accused. As the petitioner was a first-time offender and in custody since 19.10.2023, he was entitled to the concession of bail as none of the 24 prosecution witnesses had been examined so far thereby delaying the conclusion of the Trial. Reliance is place on the judgments of this Court in ***Saroj Vs. State of Haryana CRM-M-34181-2023 Decided on 30.01.2024.***

4. The Counsel for the State on the other hand contends that as all the accused persons were standing together each accused could be said to be in conscious possession of the contraband in the possession of the other and, therefore, the total recovery in this case was 42.44 Kgs of Ganja which was more than commercial quantity. Thus the petitioner was not entitled to the concession of bail. He however concedes that the petitoiner was a first time offender in custody since 19.10.2023 and that none of the 24 Pws had been examined so far.

5. I have heard counsel for the parties.

6. This Court in ***Saroj's case (supra)*** held as under:-

“ 3. The learned counsel for the petitioner contends that only 100 grams of heroin had been recovered from the petitioner which was less than the commercial quantity. The recovery from the co-accused Sushil could not be added to the recovery from the petitioner as in each case the recovery was effected from polythene/bag being separately carried by the accused. As the petitioner was a lady, a first-time offender and in custody since 31.03.2023, she was entitled to the concession of bail as none of the 15 prosecution witnesses had been examined so far thereby delaying the conclusion of the Trial.

4. A status report dated 26.01.2024 by way of an affidavit of Ashok Kumar, HPS, Deputy Superintendent of Police, Hisar-I, Hisar has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. He contends that the petitioner and her co-accused were travelling on the same motorcycle. From



the petitioner, the recovery of 100 grams of heroin had been effected and from her co-accused 400 grams. The total recovery effected was 500 grams of heroin which fell into the commercial quantity category. Therefore, she was not entitled to the concession of bail. He, however, concedes that the petitioner was a first-time offender, in custody since 31.03.2023 and that none of the 15 prosecution witnesses had been examined so far.

5. *I have heard the learned counsel for the parties.*

6. *Admittedly, the recovery from the petitioner and her co-accused was from the bags separately carried by them. Whether the recoveries could be clubbed together shall be adjudicated upon during the course of the Trial. However, at this stage, as the recovery from the petitioner is of 100 grams of heroin which is a non-commercial quantity, she is in custody since 31.03.2023 and none of the 15 prosecution witnesses have been examined so far, the Trial of the present case is not likely to be concluded anytime soon. In this situation, the further incarceration of the petitioner is not required.”*

7. Admittedly, the recovery from the petitioner and his co-accused was from the bags separately carried by them. Whether the recoveries could be clubbed together shall be adjudicated upon during the course of the Trial. However, at this stage, as the recovery from the petitioner is of 10.500 Kg of Ganja which is a non-commercial quantity, he is in custody since 19.10.2023 and none of the 24 prosecution witnesses have been examined so far, the Trial of the present case is not likely to be concluded anytime soon and, therefore, the further incarceration of the petitioner is not required.

8. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, **Shailender** son of Rambir is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. The petitioner shall appear on the first Monday of every month before the local police station till the conclusion of the trial and furnish an



affidavit each time that he is not involved in any crime other than the present case.

10. In addition, the petitioner (or anyone else on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from Trial without sufficient cause.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

July 31, 2024
Vinay

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