



CRM-M-28787-2024

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

CRM-M-28787-2024

Date of Decision: 09.07.2024

Rajnish @ Rajan

..... Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Sachmeet Singh Randhawa, Advocate, for the petitioner.

Mr. J.S. Arora, DAG, Punjab.

Rajesh Bhardwaj, J. (ORAL)

1. Prayer in the present petition is for grant of regular bail to the petitioner in a case FIR No.22 dated 24.02.2024, registered under Sections 21-B, 27-A, 29 of NDPS Act and Section 25 of the Arms Act, at Police Station Dinanagar, District Gurdaspur.

2. Adumbrated facts of the case are that the Police party while checking a private bus, found two young men sitting together. On suspicion, they searched them and on conducting search, 50 grams of heroin was recovered from Rajnish @ Rajan (petitioner), whereas, 45 grams of heroin was recovered from other person. Both of them failed to produce any licence regarding the possession of the same and thus, FIR was registered and investigation commenced. The petitioner alongwith co-accused was arrested on the spot. He approached the Court of learned Special Judge, Gurdaspur praying for grant of regular bail, however, after hearing both the sides, the Court declined the same vide order dated 16.04.2024. Hence, the petitioner has approached this Court by way of the present petition praying for the grant of regular bail.

3. Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case. He submits that



recovery has been effected from a public place, however, no independent witness i.e. passenger from the bus has been joined. He has submitted that recovery has been effected from the pocket of the petitioner, thus, there is a violation of mandatory provision of Section 50 of the NDPS Act. He submits that even otherwise, the alleged recovery falls under the non-commercial quantity. He further submits that co-accused Sanju Sharma @ Sanjay Sharma has already been granted bail by this Court vide order dated 17.05.2024. He submits that quantity being non-commercial, provisions of Section 37 NDPS Act are not attracted. He further submits that the petitioner is not involved in any other criminal case except the present case, thus, he deserves to be granted bail.

4. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner. He has submitted that recovery was effected from the pocket of the petitioner and offer under Section 50 of the NDPS Act was also given. However, on instructions from ASI Naresh Kumar, he has submitted that the petitioner has no criminal antecedents. He also acknowledges the fact that co-accused Sanju Sharma @ Sanjay Sharma, has already been granted bail by this Court vide order dated 17.05.2024. He has submitted that the investigation is under progress and the challan is yet to be presented

5. Heard.

6. After hearing learned counsel for the parties and perusing the record, it is apparent that the petitioner is behind bars since 24.02.2024. Recovery of 50 grams of heroin has been effected from him, which admittedly falls under the non-commercial quantity. There is nothing on



record to show that the petitioner is involved in any other criminal case. Co-accused has already been granted bail by this Court.

7. This Court would refrain itself from commenting anything on the merits of the case. However, considering the prayer for grant of bail to the petitioner, this Court is of the view that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner.

8. Considering that the trial would take sufficient long time in its conclusion, the present petition is allowed and the petitioner is ordered to be released on bail to the satisfaction of the concerned trial Court/Duty Magistrate.

9. Nothing said herein shall be construed as an expression of opinion on the merits of the case.

09.07.2024

sharmila

Whether Speaking/Reasoned

Whether Reportable

:

:

Yes/No

Yes/No

(RAJESH BHARDWAJ)

JUDGE