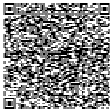


2024.PHHC:143854



IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

217

CRM-M-35584-2024 (O&M)
Date of decision: 05.11.2024

Vikram @ Bikram ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Ms. Samanpreet Kaur, Advocate
for the petitioner. (Through VC)

Mr. A. S. Samra, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. CRM-29649-2024

Allowed as prayed for.

Leave granted.

2. CRM-M-35584-2024 (O&M)

The instant one is the third petition which has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No. 668 dated 04.12.2021, registered under Sections 21-C and 29 of the NDPS Act, 1985 at Police Station City Kaithal, District Kaithal. The earlier two petitions were dismissed as withdrawn.

3. Brief facts of the case relevant for the disposal of the present petition are that on 03.12.2021, on receipt of a secret information to the effect that the petitioner and one Rajesh Kumar were indulged in selling heroin, a raiding party headed by SI Joginder Singh was constituted, which raided the informed place and the petitioner as well as co-accused Rajesh Kumar were

2024.PHHC.143854



apprehended, while they were coming from Manas Chowk on a scooter. On search of the petitioner, 655 grams of heroin was recovered, whereas 160 grams of heroin was recovered from the co-accused. Both of them were arrested at the spot. During the course of investigation, disclosure statement of the petitioner was recorded, wherein he disclosed that one Manpreet @ Mandi had given him 01 kg. of heroin for selling the same for Rs. 16 Lakhs, out of which, he had sold some of the contraband and had given 160 grams of heroin to co-accused Rajesh Kumar for selling the same. Subsequently, co-accused Manpreet @ Mandi was also arrested on 05.12.2021, who admitted to the factum of giving heroin to the petitioner for selling the same. After completion of necessary investigation and usual formalities, *challan* was presented before the Court and presently, the petitioner along with the co-accused is facing trial for commission of aforesaid mentioned offence. He had moved an application before the trial Court for grant of regular bail but the same had been dismissed, vide order dated 06.06.2022.

4. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. In fact, the recovery of the alleged contraband, shown to have been effected from the petitioner, was planted by the police officials. Investigation has since been completed and *challan* has been presented. The trial is likely to take a long time. The petitioner is in custody since 04.12.2021. No useful purpose would be served by keeping him in custody anymore. It is also argued that co-accused Rajesh Kumar has already been granted concession of regular bail by this Court, vide order dated 23.02.2022 passed in **CRM-M-6862-2022**. Therefore, on the ground of parity too, the petitioner deserves to be granted benefit of bail. It is, thus, urged that the petition deserves to be allowed.

2024.PHHC:143854

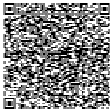


5. Status report has been filed by the respondent-State. It is submitted therein and learned State counsel has argued that the petitioner was apprehended by the police party on 04.12.2021 along with aforesaid co-accused and recovery of 655 grams of heroin was effected from him, which falls under the commercial quantity. It is argued that since a commercial quantity of the contraband has been recovered from the petitioner, the rigors of Section 37 of the NDPS Act would be attracted against him. Trial is going on at a proper pace. It is also argued that if the petitioner is released on bail, he may abscond or indulge in the similar offences. It is, thus, argued that the petition is liable to be dismissed.

6. I have learned counsel for the parties at considerable length and have also perused the material placed on record.

7. As per the allegations, the petitioner was apprehended by the police party on 04.12.2021 and recovery of 655 grams of heroin was effected from him, which obviously falls under the commercial quantity as the threshold for the commercial quantity of heroin is only 250 grams. Hence, the rigors of Section 37 of the NDPS Act would certainly be attracted against the petitioner. So far as the claim of the petitioner with regard to parity with the co-accused, who has been granted benefit of bail, is concerned, it can be stated that the case of the petitioner is not on similar footing with that of the co-accused as the contraband recovered from the co-accused falls under non-commercial quantity, whereas the contraband recovered from the petitioner falls under commercial quantity. The trial is going on at a proper pace as out of total 14 witnesses, 06 witnesses have already been examined and there is nothing on record to show that there would be any undue delay in conclusion of the same. Therefore, keeping in view the discussion as made above, the quantity of recovered

2024.PHHC.143854



contraband, the quantum of sentence which the conviction may entail and the attendant facts and circumstances of the case, I am of the considered opinion that the petitioner does not deserve to be granted benefit of regular bail, at this stage. Hence, the petition is dismissed.

8. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

05.11.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No