

CRM-M-48373-2023

214 IN THE HIGH COURT OF PUNJAB AND HARYANA
 CHANDIGARH

CRM-M-48373-2023 (O&M)
Date of Decision: 31.01.2024

VIKRANT KUMAR

...Petitioner

V/S

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Ashu Rana, Advocate for
 Mr. Vikramjit Singh, Advocate for the petitioner.

Mr. Sandeep Kumar, DAG Punjab.

HARPREET SINGH BRAR J. (Oral)

1. This is the first petition filed under Section 439 of Cr.P.C. seeking grant of regular bail to the petitioner in the case bearing FIR No. 71 dated 18.04.2023 registered under Sections 21, 21(b), 27-A and 29 of NDPS Act at Police Station Dinanagar, District Gurdaspur.
2. Present FIR was lodged on the allegations that on 13.03.2023, one person was intercepted by the police party during patrolling duty at Deeda Sansian, who was coming on foot and on seeing the police party, he became perplexed and on the basis of suspicion, he was apprehended and on inquiry, he disclosed his name as Vikrant (petitioner herein). 12 grams of Heroin along with Rs. 5,000/- were recovered from him. During interrogation, the petitioner disclosed that the abovesaid money has been collected by him by selling the Heroin.
3. Learned counsel for the petitioner *inter alia* contends that the the petitioner is behind the bars since 18.04.2023 and there is non-compliance of Sections 42 and 50 of NDPS Act and recovery of 12

grams of Heroin falls within the ambit of non-commercial quantity.

4. Per contra, learned State counsel opposes the prayer of grant of regular bail to the petitioner on the ground that petitioner is a habitual offender and involved in four more cases under the NDPS Act and out of those four cases, in one case, he has already been convicted and as such he does not deserve the concession of regular bail.

5. Having heard the learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 18.04.2023. The Investigating Agency has completed the investigation and submitted the final report under Section 173 of Cr.P.C. on 07.10.2023. Culpability, if any, would be determined at the time of the trial. Trial of the case is likely to take long time to conclude as only 01, out of 11 prosecution witnesses, has been examined so far. So further incarceration of the petitioner without there being the prospect of the conclusion of the trial in the near future, would be violative of Article 21 of the Constitution of India. Culpability, if any, would be determined at the time of the trial.

6. In view of the ratio of law laid down by Hon'ble Supreme Court in ***Prabhakar Tiwari Vs. State of UP and Anr.*** 2020(1) RCR (Criminal) 831 and ***Maulana Mohd. Amir Rashadi Vs. State of U.P. and Others*** 2012(2) SCC 382, the involvement of accused in other criminal cases cannot be the sole ground to deny him the concession of bail.

7. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioner- Vikrant Kumar is ordered to be released on regular bail during trial on his furnishing bail

bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

The present petition stands allowed.

8. Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

31.01.2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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