

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

CRM-M-41965-2023

Date of Decision:-15.01.2024

Manish Kumar @ Baniya.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

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

Present:- Mr. Vikramjeet Singh, Advocate for the Petitioner.

Mr. Harkanwar Jeet Singh, Assistant Advocate General, Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.52 dated 05.05.2023 under Sections 18(b)/29 of NDPS Act, 1985 registered at Police Station Raman, District Bathinda.

2. The brief facts of the case are that the petitioner came to be apprehended with 2 Kgs of Opium.

3. The learned counsel for the petitioner contends that the petitioner had been falsely implicated in the present case. There was violation of mandatory provisions of the Act regarding search and seizure including Sections 42 and 50. As the petitioner was in custody since 05.05.2023, none of the 11 prosecution witnesses had been examined so far and the recovery was of non commercial quantity of contraband, he was entitled to the concession of bail.

4. The learned counsel for the State, on the other hand, contends

that serious allegations have been levelled against the petitioner. Offences of this kind were on the rise and, therefore, he was not entitled to the concession of bail. He, however, concedes that the petitioner was a first time offender, in custody since 05.05.2023, none of the 11 prosecution witnesses had been examined so far and that the recovery was of non commercial quantity of contraband.

5. I have heard the learned counsel for the parties.
6. Admittedly, the recovery from the petitioner is of non commercial quantity of contraband. Therefore, the bar contained under Section 37 of the NDPS Act would not be applicable to the case of the petitioner. Further, the petitioner is stated to be in custody since 5.5.2023 and none of the 11 prosecution witnesses had been examined so far. Therefore 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. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Manish Kumar @ Baniya** son of Sh. Salochan Kumar is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.
8. The petition stands disposed of.

(JASJIT SINGH BEDI)

JUDGE

January 15, 2024

Vinay

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