

2024:PHHC:116489



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

227

CRM M-42614 of 2024
Date of Decision: 05.09.2024

Sandeep Kumar @ Allu ...Petitioner
Versus
State of Punjab ... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Parminder Singh Sekhon, Advocate
for the petitioner.

Mr. M.S. Bajwa, DAG, Punjab.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant a regular bail in case FIR No.30 dated 01.03.2021 registered under Sections 21-C of the NDPS Act at Police Station Tarn Taran, District Tarn Taran.
2. Learned counsel for the petitioner submits that petitioner has been falsely implicated in this case and that he is innocent and has not committed any offence as alleged in FIR. Learned counsel for the petitioner further submits that the petitioner was not arrested at the spot and has been nominated in this case after obtaining production warrants from court. No recovery was effected from the petitioner and 265 grams of heroin has been planted upon the him. Learned counsel for the petitioner further submits that the petitioner is in custody since

date of arrest on 01.03.2021 and conclusion of trial may take quite a long time.

3. Learned counsel for the petitioner further contends that the quantity of the contraband recovered from the petitioner is marginally above the 'commercial quantity'. Even no independent witness was joined by the police party and the police has not followed the procedure, relating to the search and seizure of the contraband. Learned counsel has also placed reliance on these judgments in (i) CRM-M-37684-2021, Balwinder Singh Vs. State of Punjab, decided on 14.02.2022; (ii) CRM-M-8212-2022, Tajinder Singh Vs. State of Punjab, decided on 03.03.2022 and (iii) CRM-M35186-2016, Manjit Kaur @ Jeeto vs. State of Punjab, decided on 01.12.2016, whereby the petitioners in the said cases were granted the concession of bail, wherein the accused were arrested with the quantity of contraband, which was marginally above the 'commercial quantity'

4. On the other hand, learned State counsel has vehemently opposed the prayer made by learned counsel for the petitioner on the ground that the quantity of contraband recovered from the present petitioner falls within the definition of 'commercial quantity' and the stringent provisions of Section 37 of NDPS Act would be applicable in the present case.

5. I have heard the learned counsel for the parties and perused the record.

6. It is not in dispute that the petitioner is incarcerated for the last three years and six months. Apart from that, the alleged recovery of the contraband is just marginally above the 'commercial quantity' and in similar circumstances, the prayer for regular bail has been allowed by co-ordinate Benches of this Court. Without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned.

05.09.2024
amit rana

(N.S.SHEKHAWAT)
JUDGE

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