



**CRM-M-47845-2023**

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

**CRM-M-47845-2023**

**Date of decision : September 12, 2024**

Ajay Kumar alias Bony

....Petitioner

Versus

State of Haryana

....Respondent

**CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present : Mr. Nitin Goswami, Advocate and  
Ms. Bhumika Sachan, Advocate for  
Mr. Lupil Gupta, Advocate, for the petitioner

Mr. Bhupender Singh, DAG, Haryana

**KULDEEP TIWARI,J. (ORAL)**

1. Through the instant petition filed under Section 439 Cr.P.C. the petitioner prays for grant of regular bail in case FIR No. 277 dated 25.10.2022, under Sections 21(b) of the NDPS Act, and further added Section 27A of the NDPS Act, registered at Police Station PS Garhi, District Jind.

2. On the basis of secret information, a raid was conducted and three persons namely Ashok Kumar alias Shoki, Vishnu and Lakku alias Sheera were arrested, carrying heroin 23 grams, 8 grams and 20 grams, respectively. During investigation, all three suffered disclosure statements

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that it is the petitioner who gave them money to purchase heroin from Ravina, daughter of Balwan. Thereupon, the present petitioner was arrested and produced in court, in pursuance of the production warrant, the petitioner joined the investigation in this case. The petitioner during interrogation suffered a disclosure statement that he had given an amount of Rs 51,000/-, to all the three persons for purchase of the said heroin.

3. In asking for the relief (*supra*), it is submitted by the learned counsel for the petitioner that there is nothing on record except the disclosure statement of the co-accused, to connect the present petitioner with the instant crime. The petitioner has already suffered incarceration of one year as on today, and combined recovery from all the three accused persons is of 51 grams of heroin, which falls within the ambit of non-commercial quantity, therefore, the statutory bar of Section 37 of the NDPS Act, is not applicable to the case of the present petitioner. He further submits that though the petitioner is involved in four other cases of NDPS Act, but in the instant case, he has suffered incarceration of one year.

4. Learned State counsel, on the other hand opposed the asked for relief (*supra*), to the petitioner, and placed on record the custody certificate, and the same is taken on record. The custody certificate reflects, that the petitioner has suffered incarceration of one year, and he is involved in 13 other cases, out of which he is facing trial in 6 cases, and in 3 cases he has already been convicted, and earned acquittal in five cases. He further submits, on instructions imparted to him by the official concerned that out



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of 18 witnesses cited by the prosecution in the final report, no witness has been examined so far.

5. Considering the period of incarceration, the stage of the trial i.e. the prosecution evidence is yet to begin, and the recovery which is 51 grams of heroin, this Court deems it fit and appropriate to extend the benefit of regular bail to the petitioner. Therefore, the present petition is **allowed**.

6. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

7. However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

8. It is further made clear that in case, in future if the petitioner is involved in the similar type of offence, the State is at liberty to file appropriate application for seeking cancellation of the bail granted to the present petitioner.

September 12, 2024  
'tiwana'

( KULDEEP TIWARI )  
JUDGE

Whether speaking/reasoned ? Yes/No  
Whether Reportable ? Yes/No