

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

238

CRM-M-57415 of 2023

Date of Decision: 18.01.2024

Aerik @ Aemark

Versus

...Petitioner

State of Punjab

... Respondent

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

Present :

Mr. Ritesh Pandey, Advocate for the petitioner.

Mr. Mohit Chaudhary, AAG, 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.89 dated 24.08.2023 registered under Sections 21(b) and 27(a) of the NDPS Act at Police Station Dhariwal, District Gurdaspur.
2. As per the story of the prosecution, on the night of 24.08.2023, a police party apprehended the petitioner while he was carrying 05 grams of heroin and Rs. 10,000/- in his conscious possession.
3. Learned counsel for the petitioner contends that the police party, which apprehended the petitioner did not follow the mandatory provisions of Section 50 of the NDPS Act. Apart from that, the alleged recovery of the contraband falls within the ambit of “small quantity”. The petitioner was arrested on 24.08.2023 and is in custody for the last about 05 months. He further contends that the

investigation is almost complete against the petitioner and the final report is likely to be presented against him.

4. On the other hand, learned State counsel has vehemently opposed the prayer made by the learned counsel for the petitioner on the ground that there are serious allegations against the petitioner and the petitioner is not entitled for the concession of regular bail. Learned State counsel submits that there was one more case against the petitioner under NDPS Act, however, the petitioner has undergone the sentence in the said case.

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

6. In view of the above, without commenting any further on the merits, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/CJM concerned.

*(i) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.*

*(ii) The petitioner shall remain present before the Court on the dates fixed for hearing of the case.*

*(iii) The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.*

- (iv) The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.*
- (v) The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.*
- (vi) In case, the petitioner gets involved in any other criminal activity, during the pendency of the trial, it shall be viewed seriously and the prosecution shall be at liberty to move an appropriate application for cancellation of bail granted to the present petitioner.*
- (vii) The concerned Court may insist two heavy local surties and may also impose any other condition, in accordance with law, while accepting the bails bonds and surety bonds of the petitioner.*

18.01.2024

amit rana

(N.S.SHEKHAWAT)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No