

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

227

CRM-M-58429-2023
Date of Decision: 29.04.2024

DEEPAK KUMAR

.....Petitioner

Vs.

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: Mr. Gurmeet Singh Saini, Advocate
for the petitioner.

Mr. Sumit Jain, Additional AG, Haryana.

DEEPAK GUPTA, J. (ORAL)

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail in case FIR No. 0134 dated 02.03.2023, under Sections 15 & 18 of Narcotic Drugs & Psychotropic Substances Act, 1985 (Section 27-A & 29 of NDPS Act later on), registered at Police Station Shahabad, District Kurukshetra (Haryana).

2. As per the allegations, 6.5 Kg of opium and 10 Kg of poppy husk was recovered on 02.03.2023 from the conscious possession of petitioner – Deepak Kumar.

3. Learned counsel for the petitioner contends that the petitioner has been falsely implicated; that he is in custody for the last more than 01 year; that the trial is not proceeding further as not even a single witness has been examined so far; and that petitioner is not involved in any other case.

4. Learned State counsel concedes the fact that out of 14 witnesses cited by the prosecution, not even a single witness has been examined so far. However, bail is opposed on the ground that the recovered quantity of contraband falls in the commercial category.

5. Custody certificate placed on record would reveal that petitioner is in custody for 11 months and 27 days up to 08.03.2024, which means by now his custody period is more than 01 years and 01 month. Custody certificate also reveals that petitioner is not involved in any other case.
6. Considering the fact that out of 14 witnesses, not even a single witness has been examined so far, it is obvious that trial is likely to take long time to conclude.
7. Having regard to the incarceration period of the petitioner, the rigor of Section 37 of the NDPS Act is required to be balanced with Article 21 of the Constitution of India providing for the fundamental right of the life and liberty, of which the right of speedy trial forms part.
8. Looking into the aforesaid facts and circumstances of the case, but without commenting anything on the merits of the case, the petitioner is admitted to bail. He is ordered to be released on bail on his furnishing requisite bail bonds and surety bonds to the satisfaction of learned Trial Court/Duty Magistrate concerned.

Allowed.

29.04.2024
pry

(DEEPAK GUPTA)
JUDGE

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