

Law Today Live Doc. Id. 15127

PUNJAB AND HARYANA HIGH COURT

Before: Lalit Batra, J.

CRM-M-48655 of 2019

Decided on: 13.07.2020

Bhiyan Ram

Petitioner

Versus

State of Haryana

Respondent

Present:

Mr. Vikas Bishnoi, Advocate for the petitioner.

Mr. Amit Aggarwal, DAG, Haryana.

Narcotic Drugs and Psychotropic Substances, Act, 1985 (61 of 1985), Section 18 – Code of Criminal Procedure, 1973 (2 of 1974), Section 439 -- Recovery of 2 ½ kilograms of opium – Regular bail – By consideration the fact that petitioner is in custody since 22.09.2019; that petitioner is no more required by the Investigating Agency for investigation purpose; that challan has been presented in the Court; that trial has already commenced and since consequent trial of the case would take sufficient time to conclude, no useful purpose would be served by detaining the petitioner in custody further, thus, he deserves the concession of bail – Regular bail granted.

(Para 2, 6,7)

JUDGMENT

LALIT BATRA, J. (ORAL) –

1. Case has been taken up for hearing through Video Conferencing.

2. Present petition under Section 439 Cr.P.C is for grant of regular bail to petitioner-**Bhiyan Ram** in case F.I.R. No.337 dated 22.09.2019 under Section 18 of NDPS Act registered at Police Station Bhuna, District Fatehabad.

3. Learned counsel for the petitioner *inter alia* contends that petitioner has no nexus whatsoever with the alleged offence. He further urges that even otherwise alleged recovery of 2 ½ kilograms of opium falls within ambit of “non-commercial quantity” as in terms of provisions of Section 2 (viiia) of NDPS Act, “commercial quantity”, in relation to narcotic drugs and psychotropic substances, means any quantity greater than the quantity specified by the Central Government by notification in the Official Gazette. He further submits that petitioner is in custody since 22.09.2019 and he is no more required by the Police for any investigation purpose. He further urges that challan has been presented in the Court and trial has already commenced. He further urges that since trial of the case would take sufficient time to conclude, no useful purpose would be served by keeping the petitioner in custody further and he may be released on bail.

4. On the other hand, learned State counsel while opposing instant petition has vehemently argued that keeping in view seriousness of offence, petitioner does not deserve the concession of bail.

5. I have heard learned counsel for the parties.

6. At this stage, without commenting anything on the merits of the case lest it may prejudice the outcome of the trial but taking into consideration the fact that petitioner is in custody since 22.09.2019; that petitioner is no more required by the Investigating Agency for investigation purpose; that challan has been presented in the Court; that trial has already commenced and since consequent trial of the case would take sufficient time to conclude, no useful purpose would be served by detaining the petitioner in custody further, thus, he deserves the concession of bail.

7. In view of above, instant petition for grant of regular bail moved by petitioner-**Bhiyan Ram** is allowed and he is ordered to be released on bail on his furnishing personal/surety bonds to the satisfaction of Chief Judicial Magistrate/Trial Court/Duty Magistrate, Fatehabad, as the case may be.

Petition allowed.
