
(2021) 02 P&H CK 0133

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition (M) No. 111 Of 2021

Radhey Shyam @ Shama

APPELLANT

Vs

State Of Haryana

RESPONDENT

Date of Decision : 15-02-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Citation : (2021) 02 P&H CK 0133

Hon'ble Judges : Arvind Singh Sangwan, J

Bench : Single Bench

Advocate : R.S. Mamli, Deepak Kumar Grewal

Final Decision : Allowed

Judgement

Arvind Singh Sangwan, J

This is a petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.381 dated 04.12.2020 under Section 15 of Narcotic

Drugs and Psychotropic Substances Act, 1985 registered at Police Station Bhuna, District Fatehabad, Haryana.

Learned counsel for the petitioner submits that as per allegations in the FIR, 3 kgs and 700 grams of poppy straw was recovered from the petitioner

which is of non-commercial quantity.

Learned counsel for the petitioner further submits that out of 14 prosecution witnesses, none has been examined so far; CHALLAN stands presented

and charges are yet to be framed and since 14 prosecution witnesses have to be examined, it will take a long time in conclusion of trial.

Learned counsel for the petitioner further submits that the ground for dismissal of the application by the Special Judge, Fatehabad is that petitioner is

involved in four more FIRs.

Learned counsel for the petitioner has referred to judgment dated 13.03.2015 relating to FIR No.204 dated 18.02.2012 passed by the Sessions Judge,

Hisar vide which, the sentence of six months awarded by the trial Court was reduced to the period already undergone by the petitioner as the offence

was under Section 174-A of the IPC.

Learned counsel for the petitioner further referred to judgment dated 30.03.2015 passed by the Additional Sessions Judge, Fatehabad relating to FIR

No.693 dated 27.11.2014 vide which, the petitioner was again directed to undergo custody already undergone by him as the recovery was of small

quantity in a case under Section 15 of the NDPS Act.

Learned counsel for the petitioner further referred to judgment dated 04.09.2017 relating to FIR No.214 dated 23.02.2010 under Sections 406/420 of

the IPC, vide which the petitioner stands acquitted.

Learned counsel for the petitioner further referred to another judgment dated 06.03.2018 relating to FIR No.481 dated 01.08.2015 vide which, the

petitioner and the other accused were acquitted in case under Sections 15 and 27-A of the NDPS Act.

Learned counsel for the petitioner further submits that the petitioner has in fact undergone sentence in one case where he has confessed and his

sentence was reduced to the period already undergone by him.

Learned counsel for the petitioner further submits that due to COVID-19 situation, though actual hearing has started in courts below, however,

considering the long pendency of cases and as priority is being given to old cases, it will take a long time in conclusion of trial in the present case.

Learned State counsel has filed the custody certificate and as per same, the petitioner is in custody since 05.12.2020.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case and considering the aforesaid submissions of learned counsel for the parties, the instant petition is

allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty

Magistrate/Illaq Magistrate, concerned.