

RISHIPAL      VERSUS      UNION OF INDIA, NCB CHANDIGARH  
CNR No. HRKH01-007923-2022      -1-      CIS No. BA/1414/2022

**IN THE COURT OF NATASHA SHARMA ADDITIONAL SESSIONS**  
**JUDGE KAITHAL.**

CIS No. BA/1414/2022  
Case regd. No.370 of 2022  
UID No. HR0219  
Date of Institution: 04.10.2022  
CNR No. HRKH01-007923-2022  
Date of Order: 15.10.2022

Rishipal aged 44 years son of Telu Ram resident of Main Chand Wali Gali  
Village Pai Tehsil Pundri District Kaithal.

-----Petitioner/Accused.

Versus

Union of India, Narcotics Control Bureau, Chandigarh.

-----Respondent.

Crime Case No.72 dated 17.11.2021  
Under Sections: 8, 20, 25, 27-A,29 & 60 NDPS Act.  
NCB Chandigarh Zonal Unit, Chandigarh.

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**PETITION FOR REGULAR BAIL UNDER SECTION 439 Cr.P.C.(1<sup>st</sup>).**  
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Argued by: Sh.Sachin Jain Adv. counsel for petitioner/accused Rishipal.  
Sh.Virender Gagneja Special Public Prosecutor & Sh.Munish  
Sikri Adv. counsel for NCB Chandigarh/respondent.

**ORDER :**

The petitioner Rishipal named above moved a petition in  
seeking the concession of regular bail in the aforementioned case.  
Upon notice, the same is opposed by the adversary by filing the written  
reply.

Learned counsel for the petitioner contended that as alleged  
by prosecution, the petitioner alongwith co-accused Noor Dass was  
apprehended and found in conscious possession of Charas weighing 3.540

(Natasha Sharma)  
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kg. on 17.11.2021. However, it is contended that the petitioner has been falsely implicated and he has no connection whatsoever with the alleged recovery of contraband. Even the witnesses to the alleged recovery are officials of the department and there is no likelihood of their being won over. It is further contended that the petitioner has been in custody since his arrest on 17.11.2021; nothing remains to be recovered from him; he is not required for investigation purpose by the NCB team ; investigation proceedings have culminated into the complaint/final report qua the petitioner ; no useful purpose would be served by keeping him behind the bars when trial of the case might take some time and the petitioner shall not misuse the concession of regular bail, if the same is granted to him.

Per contra, learned Special Public Prosecutor assisted by learned counsel for NCB Chandigarh contended that the petitioner was apprehended alongwith co-accused Noor Dass on 17.11.2021 with the contraband i.e. Charas weighing 3.540 kg. The recovery of contraband falls within the definition of commercial quantity thereby invoking the provisions of section 37 of NDPS Act that bars the grant of relief of bail in such type of cases. It is contended that as disclosed vide his voluntary statement under section 67 of NDPS Act, the petitioner used the account number of his brother/co-accused Subhash through which the money consideration for purchasing the contraband was transferred to the bank account of supplier/co-accused Bakshi Ram resident of Kullu (H.P.). Even

the CAF of mobile phone number disclosed by the petitioner carried the name and ID of his brother/co-accused, as aforesaid. The call detail records collected by the investigating agency also revealed that the petitioner was in continuous contact with the co-accused Noor Dass etc. Infact, the petitioner was a member of group of criminals involved in illicit drug trafficking and committing offences under NDPS Act. As such, there was every likelihood that the petitioner might abscond; tamper with evidence and misuse the concession of regular bail, if the same was granted to him. It is also submitted that the petitioner's brother/co-accused Subhash had been denied the concession of anticipatory bail by Hon'ble High Court.

I have considered the rival contentions of both the parties and perused the file.

Succinctly stated, accused Noor Dass and Rishipal (petitioner) were apprehended by the Jr. Intelligence Officer of Narcotics Control Bureau Chandigarh on 17.11.2021 for seizure of 3.540 kg. of Charas from their conscious possession alongwith the offending vehicles while they were trafficking Charas from Himachal Pradesh to Kaithal, Haryana. The alleged recovery fell within the ambit of 'commercial quantity' and the accused persons including the petitioner tendered their voluntary statements wherein they admitted the manner and factum of the alleged recovery. It also surfaced that the petitioner transferred the money consideration for purchase of contraband through the bank account of his

brother/co-accused.

There is recovery of 'commercial quantity' of the contraband and from the available record, it cannot be said that there are no reasonable grounds to connect the petitioner. And there is a bar under Section 37 of NDPS Act to release the petitioner on bail.

Trade in Narcotic Drugs and Psychotropic Substances is taken as the potential threat to the society. The menace caused by such like organized activities has assumed serious and alarming proportions in the recent years. The offence allegedly committed by the petitioner has deleterious effect on the people at large and such like offenders are destroying the future and health of young populace of the country. If such people are released temporarily, in all probability, they would continue in their nefarious activities of dealing in intoxicants clandestinely. Reason might be large stake and illegal profit involved.

In the instant case, the NCB report is, prima facie, reflective of active involvement of the petitioner in the commission of alleged offence that attracts stringent punishment in law. Gravity of offence is writ large having great ramifications at the legal pedestal.

In the given facts & circumstances considering nature of accusation and gravity of offence, no ground is made out for grant of bail to the petitioner Rishipal. Resultantly, the instant petition is hereby dismissed at this stage. However, any observations made herein are only for the purpose of deciding the bail matter and do not comment upon the

merits of the main case. Papers pertaining to the petition in hand be tagged with the main file after due compliance.

Pronounced in the Open Court  
Dated 15.10.2022  
Harish Stenographer Gr.I

(Natasha Sharma)  
Addl. Sessions Judge, Kaithal  
UID No. HR0219

Five pages checked & signed.

(Natasha Sharma)  
Addl. Sessions Judge, Kaithal  
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