

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-19445-2014

Date of decision: 19.05.2015

Dayal Chand @ Diali

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. R.K. Dadwal, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK, J. (ORAL)

Petitioner seeks bail pending trial in FIR No.83 dated 02.06.2013 under Sections 22, 61, 85 of NDPS Act, registered at Police Station Sadar, District Hoshiarpur.

Notice to Advocate General, Punjab.

Mr. K.D. Sachdeva, Addl. AG, Punjab accepts notice.

Learned counsel for the petitioner, while relying upon judgment of the Hon'ble Supreme Court in **Supreme Court Legal Aid Committee representing Undertrial Prisoners Vs. Union of India, 1994 (3) RCR (Crl.) 639** and a judgment of this Court in **Nachattar Singh Vs. State of Punjab, 1996 (1) RCR (Crl.) 202**, contends that petitioner is entitled for bail pending trial. He further submits that a period of almost two years has lapsed and prosecution has examined only four PWs out of 10 PWs so far. He next contended that trial is not going to be concluded in the near future. He prays for allowing the present petition.

On the other hand, learned counsel for the State, on instructions from HC Satish Kumar, Police Station Sadar, District Hoshiarpur, submits that whatever delay has been caused in the trial that was only because of the non-availability of the report of Chemical Examiner. Now the case is listed by the learned trial Court for 02.06.2015 and every endeavour shall be made to produce the prosecution evidence at the earliest possible time. Trial will not take long time now, because only official witnesses are yet to be examined. He next contended that since the commercial quantity has been recovered from the petitioner, he is not entitled for bail pending trial. He prays for dismissal of the petition.

Having heard the learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that in the given fact situation of the present case, petitioner has not been found entitled for bail pending trial. It is so said because commercial quantity has been recovered from the petitioner. Prosecution has already examined four PWs and six more PWs who are to be examined, are only the official witnesses.

So far as the judgments relied upon by learned counsel for the petitioner are concerned, there is no dispute about the law laid down therein. However, on perusal of the cited judgments, none of them has been found of any help to the petitioner. It is the settled proposition of law that peculiar facts of each case are to be examined, considered and appreciated first before applying any codified or judgemade law thereto. Sometimes, difference of one additional fact or circumstance can make a world of difference, as held

by the Hon'ble Supreme Court in **Padmausundra Rao and another Vs. State of Tamil Nadu and others, 2002 (3) SCC 533.**

Without commenting anything further on the merits of the case, including the quality of evidence led by the prosecution so far, lest it should prejudice the rights of either of the parties, no case for bail pending trial is made out.

Dismissed.

[RAMESHWAR SINGH MALIK]
JUDGE

19.05.2015
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