

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-22109 of 2015
Date of decision: July 17, 2015

Balwinder Singh @ Laddi

.... Petitioner..

Versus

State of Punjab

.... Respondent..

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Parminder Singh Sekhon, Advocate for the petitioner.

Mr. Deepak Garg, A.A.G., Punjab for respondent-State.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Jaspal Singh, J.

Instant petition has been preferred under Section 439 of the Code of Criminal Procedure by Balwinder Singh @ Laddi-petitioner, seeking regular bail, in case FIR No. 33, dated 15.05.2014, under Sections 22/61/85 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'Act'), Police Station Sadar Budhlada, District Mansa, during pendency of trial.

2. Case of prosecution in nutshell is that on May 15, 2014 ASI Jaswant Singh apprehended Major Singh @ Meji and Balwinder Singh @ Laddi while coming on motorcycle bearing No. PB-19-E-8658. Major Singh @ Meji was driving motorcycle whereas Balwinder Singh @ Laddi was riding on its pillion while having bag in his hand. On checking the bag carried by Balwinder Singh @ Laddi, 15 vials of REXCOF each of

100 ml. and three strips of CARISOL each containing 50 tablets were recovered. Report of chemical examiner opined that REXCOF was containing codeine phosphate and CARISOL tablets were containing carisoprodol.

3. Contention of learned counsel for petitioner is that earlier petition preferred by petitioner seeking regular bail was dismissed by this Court vide order dated March 12, 2015 and at that time, it was not brought to the notice of this Court that similar situated co-accused has already been granted the concession of bail vide order dated January 12, 2015 (Annexure P-2). On the ground of parity, petitioner also deserves the concession of bail. It has further been submitted by learned counsel for petitioner that petitioner is in custody since May 15, 2014. Investigation is complete and challan has already been presented. As such, he is no more required by the police for further interrogation/investigation. Moreover, trial is also likely to take sufficient long time. Petitioner also undertakes to abide by all the terms and conditions imposed by this Court, in case, he is granted concession of bail.

4. On the other hand learned State counsel has opposed the bail and has controverted the submission made by learned counsel for petitioner submitting that contraband was recovered from the conscious possession of petitioner, who was pillion rider on motorcycle, which was being driven by his co-accused Major Singh @ Meji. The case of Major Singh @ Meji cannot be equated with the case of petitioner for the simple reason that he was driving the motorcycle.

5. This Court has given an anxious thought to the submissions made by learned counsel for petitioner and has perused the record.

6. Admittedly, earlier petition preferred by petitioner has been dismissed on merits vide order dated March 12, 2015 and there is no cogent ground for moving second application. Merely, because co-accused of petitioner namely Major Singh @ Meji has been granted the concession of bail, petitioner do not deserve concession of bail, as the allegation against him cannot be construed to be on similar footings. In fact, petitioner was riding pillion on motorcycle and was holding a bag in his hands. On search, it was found to be containing contraband i.e. 15 vials of REXCOF each of 100 ml. and three strips of CARISOL each containing 50 tablets. Report of chemical examiner clearly suggests the contraband to be a narcotic drug, which falls within the purview of Section 22 of the Act. The mere fact that petitioner is behind the bars since May 15, 2014 does not ipso facto means that he is entitled to bail.

7. Taking into consideration all the aforesaid aspects of this case, this Court does not find any merit in the instant petition. As such, same is dismissed.

July 17, 2015
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(JASPAL SINGH)
JUDGE