

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

CRM-M-4054-2015 (O&M)

Date of decision: 04.05.2015

Rajinder Singh @ Rajinder Parshad

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Kanisth Ganeriwala, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK, J. (ORAL)

Petitioner seeks bail pending trial in FIR No.28 dated 15.02.2012 under Sections 15, 61, 85 of NDPS Act, registered at Police Station Sadar Jalalabad, District Fazilka.

Notice to Advocate General, Punjab.

Mr. Daljit Singh Virk, AAG, Punjab accepts notice.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. He places reliance on statement of Constable Hakam Singh at Annexure P-6, to contend that identity of the petitioner was not established. He further submits that petitioner was not arrested at the spot and in spite of that fact, no identification parade was arranged. He also places reliance on the orders passed by this Court at Annexures P-2 to P-5, to contend that under the similar circumstances, accused were granted bail by this Court. Finally, he prays for allowing the present petition.

Per contra, learned counsel for the State, on instructions from Head Constable Mohinder Singh, Police Station Sadar Jalalabad, District Fazilka, submits that petitioner cannot claim bail on the basis of parity because each case is to be considered and decided as per its peculiar facts. So far as the statement of Hakam Singh Ex.P6 is concerned, he submits that witness has given a source of knowledge to know the petitioner. Petitioner has met Hakam Singh at the house of Mohinder Singh who was relative of Hakam Singh. In this view of the matter, he submits that identity of the petitioner has been duly established. He next contended that since the petitioner has been found involved in three more FIRs under NDPS Act itself, as pointed out in Para 7 of the custody certificate dated 11.02.2015, petitioner is not entitled for the concession of bail pending trial. He further submits that out of 12 prosecution witnesses, 10 have already been examined. Only two Pws are left to be examined. Next date of hearing before the learned trial Court is 15.05.2015.

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 view of the peculiar fact situation of the present case, instant one has not been found to be a fit case wherein the petitioner can be granted bail pending trial. It is so said because the petitioner hails from the State of Rajasthan. He has been found involved in three FIRs registered against him in the State of Punjab under the NDPS Act and the 4th FIR registered against him in the State of Rajasthan, under the NDPS Act. This material fact, prima facie, shows that the petitioner is a professional and he is repeatedly

indulging in the offences under the NDPS Act.

So far as the orders passed by this Court at Annexures P-2 to P-5 extending the concession of bail are concerned, the same are of no help to the petitioner, being distinguishable on facts.

Further, it is the settled proposition of law that peculiar circumstances of each case are to be examined, considered and appreciated first before applying any codified or judgemade law thereto. Sometimes, difference of even one additional fact or circumstance can make the 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 any further, 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

04.05.2015
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