

CRM-M-36934-2017(O&M)

Date of decision:08.11.2017

Surinder Kumar @ Shinda

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Ms. Arti Kaur, Advocate, for the petitioner.

Mr. A.S.Gill, Sr. DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in case FIR No.0060, dated 26.05.2017 (Annexure P-1) under Sections 21, 61, 85 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Rahon, District SBS Nagar.

Learned counsel for the petitioner submits that the petitioner is in judicial lock up for the last about 4 months and 11 days and a perusal of the FIR shows that the compliance of Section 50 of the NDPS Act was not made, as, on an offer, given to the petitioner, to be searched either before a Gazetted Officer or a Magistrate, the Investigating Officer has recorded his consent that he has faith on the Investigating Officer who was of a rank of ASI and he can carry the search of the petitioner. It is further submitted that the recovery from the petitioner is of 100 grams of intoxicant which strictly do not fall in the category of commercial quantity. It is also submitted that the investigation, in this case, is complete; challan has already been presented on 01.11.2017 and the conclusion of the trial will take long time.

The learned State counsel, on instructions from ASI Husan Lal has submitted the custody certificate and as per custody certificate, the petitioner is in judicial lock up for the last about 4 months and 11 days and

is not involved in any other such or similar case.

Considering the fact that the recovery from the petitioner is of non-commercial quantity; as per the FIR, search was not made before the Gazetted Officer or a Magistrate; the case is still at the stage of framing of charges and the petitioner is not involved in any other case; the petitioner is directed to be released on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail in case the petitioner is found involved in any other subsequent case or found misusing concession of bail.

(ARVIND SINGH SANGWAN)
JUDGE

08.11.2017
Hemlata

Whether speaking/reasoned	Yes / No
Whether reportable	Yes / No