

Sr. No.213

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM No. M-43940 of 2016 (O&M)
Date of Decision:20.01.2017

Sarabjit Singh alias Shaba

... Petitioner

Versus

State of Punjab

... Respondent

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Ashish Aggarwal, Advocate,
for the petitioner.

Ms. Harpreet K. Athwal, DAG, Punjab.

TEJINDER SINGH DHINDSA, J.(ORAL)

This order shall dispose of the instant petition filed under Section 439 Cr.P.C. seeking benefit of regular bail to the petitioner pending trial in case FIR No.172 dated 30.07.2014, under Section 22 of NDPS Act, registered at Police Station Bhikhiwind, District Tarn Taran.

Learned counsel appearing for the petitioner would submit that as per case of the prosecution, the petitioner had thrown a polythene bag on the ground and which upon checking contained 100 grams of intoxicating powder.

It is the submission made by counsel that the recovery has not been effected from the petitioner or his custody but in fact from a polythene bag lying on the road and which would not amount to recovery from the person or possession of the accused.

Learned State counsel would vehemently oppose the present petition by submitting that as per report of the Chemical Examiner the

and as such the recovery would be seen as commercial in nature.

Petitioner in the present case was arrested on 08.12.2015.

On the last date of hearing, Registry had been directed to procure the status report from the trial Court as regards progress of the trial.

Placed on record is a report dated 02.01.2017 of the learned Additional Sessions Judge, Tarn Taran and as per which charges in the present case were framed on 09.12.2015 but the prosecution has failed to examine even a single witness.

On a specific query having been put, State counsel would concede that the petitioner is not a habitual offender and is not involved in any other case under the NDPS Act.

In the peculiar circumstances in which the alleged recovery is stated to have been effected and coupled with the fact that the trial has not made any progress whatsoever and the petitioner having faced incarceration since 08.12.2015, he is held entitled to the benefit of bail.

Petition is allowed. Petitioner be enlarged on bail subject to satisfaction of the Chief Judicial Magistrate/Duty Magistrate, Tarn Taran.

Disposed of.

20.01.2017

vandana

(TEJINDER SINGH DHINDSA)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No