

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

CRM-M-45332-2017 (O&M)
Date of decision : 07.12.2017

Vipan Kumar Kalia

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Naveen Sharma, Advocate for the petitioner.

Ms. Anju Arora, Addl.A.G., Punjab,
assisted by ASI Jatinder Kumar.

JITENDRA CHAUHAN, J. (Oral)

The instant petition has been preferred under Section 439 Cr.P.C. seeking bail in FIR No.71 dated 03.06.2016, registered under Section 22 of the NDPS Act, at P.S. Dugri, District Ludhiana.

This is the second bail petition moved by the petitioner before this Court.

Contentends that the Investigating Officer of the case, namely, Naresh Kumar, being ad hoc ASI, was not competent to register the present FIR. Cities *Bikkar Singh Vs. State of Punjab, 2006(3) R.C.R. (Criminal) 16*. Further states that the petitioner had been admitted to interim bail vide order dated 07.09.2017, passed by this Court in CRM-M-29772-2016. The petitioner was advised by the counsel that as the case has been registered by the incompetent authority, the FIR is likely to be cancelled. The petitioner being illiterate, could not understand the import of the instructions; took it as acquittal; and remained under a bona fide belief that he is not required to appear before the Court. He was ultimately declared a proclaimed offender

on 12.04.2017 and subsequently arrested on 08.07.2017. As against the

alleged recovery of 120 grams of contraband, co-accused Tejinder Singh, from whom allegedly 240 grams of intoxicating powder was recovered, has been admitted to bail by a coordinate bench of this Court. Co-accused Tajinder Singh has also moved an application for discharge on the ground that the I.O. was not competent to register the FIR. The same is pending adjudication before the competent Court.

On the other hand, learned State counsel, on instructions, submits that the charges have been framed and out of 14 prosecution witnesses, 01 has already been examined.

Heard.

Considering the facts that similarly situated co-accused Tajinder Singh has already been granted bail by this Court and 13 prosecution witnesses still remain to be examined, thus, the conclusion of the trial may take considerable time, without adverting to the merits of the instant case, this petition is allowed. The petitioner be admitted to bail during the pendency of the trial, on furnishing bail bonds and surety bonds, to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

However, anything noticed hereinabove shall not be construed as an expression of opinion on the merits of the case.

07.12.2017

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(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No