

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

**CRM-M No.9343 of 2017
Date of Decision: 24.05.2017**

Kala Singh @ Kala

.....Petitioner

Vs

State of Punjab

....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. H.S. Dhandi, Advocate
for the petitioner.

Mr. A.S. Kler, D.A.G., Punjab.

RAJ MOHAN SINGH, J.

[1]. Petitioner seeks grant of regular bail in case bearing FIR No.43 dated 09.06.2015 registered under Sections 21/22/61/85 of the NDPS Act (hereinafter to be referred as 'the Act') at P.S. Begowal, District Kapurthala.

[2]. Brief facts are that the FIR was registered with the allegations that the Police party was present in a private vehicle for checking and search of anti-social elements at Nadali Bridge. From the side of Begowal one clean shaven person was seen coming, who after seeing the police party got perplexed and tried to turn back. He was apprehended on suspicion by the

police. On asking, he disclosed his name as Kala Singh @ Kala. He reposed full faith in the police for conducting his search. From the right pocket of the pant of the petitioner, one packet of white colour power wrapped in plastic envelope was recovered from which 5 grams each of two samples were separated and the remaining narcotic powder was weighed. On weighment it was found to be 90 grams. The residual was also put in plastic box and thereafter police completed the formalities.

[3]. Learned counsel for the petitioner by referring to the criminal case arising out of FIR No.55 dated 22.05.2009 registered under Sections 325/324/323/148/149 IPC at Police Station Subhanpur, Distt. Kapurthala submitted that the petitioner and his family members were falsely involved in the said case at the instance of Lakhvir Singh and they were acquitted on 17.11.2014. Didar Singh father of Lakhvir Singh died in an accident and Lakhvir Singh made a false complaint against the family members of the petitioner. The complaint was inquired into by the DSP, Kapurthala and it was found that Didar Singh was died in a road accident and the allegations levelled by Lakhvir Singh were found to be false.

[4]. Learned counsel further submitted that a civil litigation between the father of the petitioner and Didar Singh was pending in respect of possession of 14 *Kanals* of land. Father of

the petitioner was found to be in possession of the same and Didar Singh ultimately filed RSA No.735 of 2002 before this Court in which *status quo* was granted during pendency of the appeal.

[5]. Learned counsel further submitted that Lakhvir Singh was involved in narcotic trade and on account of his connivance with the police, the present case came to be registered against the petitioner.

[6]. I have heard learned counsel for the parties.

[7]. The alleged narcotic powder recovered from the petitioner was sent for chemical analysis and it was found to be containing '*Diphenoxylate Hydrochloride*' which is a manufacturing drug covered under Section 21 of the Act. The trial of the petitioner in terms of offence under Section 22/61/85 of the Act would be debatable though the FIR was registered under Section 21 of the Act, but the charges has been framed under Section 22 of the Act as per information submitted by learned State counsel on instructions from ASI Bakshish Singh.

[8]. In view of facts and circumstances of the case, the trial of the petitioner for the offence under Section 22 of the Act in respect of alleged recovery of '*Diphenoxylate Hydrochloride*' would be arguable in view of decisions rendered in **CRM**

No.33873 of 2016 in CRA-S No.1614-SB of 2014 titled '**Deepak Kumar vs. State of Punjab; CRM No.3018 of 2015 in CRA-S No.3080-SB of 2014** titled '**Rajesh Kumar vs. State of Punjab**' and **CRM No.4935 of 2016 in CRA-S No.4231-SB of 2015** titled '**Meena Rani vs. State of Punjab**'.

[9]. At this stage, without adverting to the merits of the case, I deem it appropriate to grant concession of regular bail to the petitioner

[10]. In view of above, petition is allowed. Petitioner is ordered to be enlarged on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court.

[11]. Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

May 24, 2017

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Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No