

CRM-M-10854-2018 (O&M)

Date of decision: 25.04.2018

Kala Ram @ Meena

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Vijay Rana, Advocate
for the petitioner.

Ms. Samina Dhir, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.) is for grant of regular bail to the petitioner in case FIR No. 156 dated 08.07.2017 under Sections 22, 61, 85 of the NDPS Act, registered at Police Station Sadar Khanna, District Ludhiana.

Learned counsel for the petitioner submits that the petitioner is in judicial lock up since 08.07.2017 and the recovery of 50 grams of intoxicant substance includes the weight of the bag in which the same was wrapped and it will be a debatable issue whether the same falls in the commercial quantity or not? Learned counsel for the petitioner has relied upon the order dated 07.03.2018 passed in CRM-M-3262-2018. The operative part of the order dated 07.03.2018 is reproduced as under:-

“Counsel for the petitioner has further argued that the total contraband recovered is of 52 Kgs. which is marginally higher than the commercial quantity and perusal of

*the FIR show that while weighing the contraband, the weight of 03 bags in which the same was kept, was also included. In support of his arguments, counsel for the petitioner has relied upon the judgment “**Charanjit Singh @ Phuman vs State of Punjab**”, 2015(27) RCR (Criminal) 883, where this Court has granted the concession of bail after considering the fact that the recovery is of 52 Kgs of poppy husk and the weight of the bags was included while weighing the said contraband.*

*Counsel for the petitioner has also relied upon the judgment passed by this Court “**Manju vs State of Punjab**”, 2015(9) RCR (Criminal) 41 where the recovery of 52 Kgs of poppy husk was effected from 02 bags and considering the fact that it was marginally above the commercial quantity, the accused was granted the concession of bail.*

Counsel for the State, on the other hand, has filed the Custody Certificate today in the Court and opposed the prayer for bail. It is also submitted that the challan has already been presented and the prosecution evidence is yet to start.

Without commenting anything on merits of the case and considering the fact that the petitioner has already been granted the concession of bail in earlier petition i.e. CRM-M No.39771 of 2016 wherein he had primarily shown that he was falsely implicated and subsequently he has filed another petition i.e. CRM-M No.30977 of 2016 praying for proper investigation of the said FIR; the petitioner is in judicial custody since 21.08.2017; the prosecution evidence is yet to start; the notice under Section 50 of the NDPS Act finds mention of FIR number and other details of the case, though, as per the FIR, the information was sent to the police much after effecting the recovery; the recovery effected from the petitioner is marginally higher than the commercial quantity and while weighing the contraband, the weight of the bags were also included; conclusion of trial is likely to take some

time, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial court/Illaqa Magistrate.”

Learned counsel for the petitioner further submits that the petitioner is not involved in any other case and conclusion of the trial is likely to take some time.

Learned State counsel, on instructions from ASI Bakshish Singh, has not disputed the fact the petitioner is in judicial lock up since 08.07.2017 and the case is at the stage of prosecution evidence and the petitioner is not involved in any other case.

Without commenting on the merits of the case and considering the fact that the petitioner has relied upon the order dated 07.03.2018 passed in CRM-M-3262-2018; he is not involved in any other case; the case is still at the stage of prosecution evidence, conclusion of the trial will take long time, the petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail/ 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 the concession of bail.

(ARVIND SINGH SANGWAN)
JUDGE

25.04.2018

Hemlata

Whether speaking/reasoned
Whether reportable

Yes / No
Yes / No