

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-15274-2018

Date of decision: 23.04.2018

Ravinder Kumar

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Rishu Mahajan, Advocate for the petitioner.

Mr. Atinder Pal Singh Jaurkian, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.186 dated 02.06.2014 under Sections 22/61/85 of NDPS Act and Sections 61/1/14 of Excise Act, registered at Police Station Chheharta, District Amritsar.

Learned counsel for the petitioner submits that as per the allegations in the FIR, the petitioner allegedly, on seeing the police party, jumped from a rickshaw and ran away by throwing a polythene bag and was not arrested at the spot. It is further submitted that the petitioner is nominated in the FIR on the disclosure statement made by co-accused namely Jagat Ram. Counsel for the petitioner further submits that even prior to registration of the FIR, the petitioner has moved a representation to the Commissioner of Police, Amritsar on 21.10.2013 apprehending that he may be involved in some false case under the NDPS Act on account of settling the political vendetta.

Learned counsel for the petitioner has further submitted that even the search was conducted by one Dilbagh Singh, who was adhoc HC on 02.06.2014 and was working as adhoc ASI, as per the certificate issued on

15.02.2018 (Annexure P-4). Counsel for the petitioner has relied upon **Gurjant Singh @ Janta Vs. State of Punjab, 2013 (4) RCR (Criminal) 874**, wherein the Hon'ble Supreme Court held that an adhoc ASI is not competent to conduct the search and the convict was acquitted.

Learned State counsel has however opposed the prayer for bail on the ground that the petitioner was declared a proclaimed offender and later on, he was arrested on 03.02.2018. It is further submitted that the petitioner is involved in five other FIRs under the Excise Act and one FIR under Sections 341, 379, 323 IPC, however, he is on bail, as per the custody certificate filed in the Court today. Learned State counsel, on instructions from ASI Bhupinder Singh, has submitted that the case is now fixed for prosecution evidence on 30.05.2018.

Without commenting on merits of the case, considering the fact that the petitioner has set up a defence that he was apprehending his involvement in some case under the NDPS Act and this fact is to be decided during the course of trial; investigation is complete and case is fixed for prosecution evidence; petitioner, as per the custody certificate, is not involved in any other case under the NDPS Act and also in view of the fact that arrest and investigation was done by ASI Dilbagh Singh, who was an adhoc HC on the date of registration of the FIR, this petition is allowed and the petitioner is directed to be released on bail subject to furnishing his bail/surety bond to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

Petition is disposed of.

[**ARVIND SINGH SANGWAN**]
JUDGE

23.04.2018

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No