

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-18801-2018 (O&M)
Date of decision: 17.10.2018

Vikas Chhabra

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Balram Singh, Advocate
for the petitioner.

Mr. M.S. Nagra, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

CRM-35825-2018

For the reasons stated in the application, same is allowed. The zimni orders dated 28.11.2017 to 18.09.2018 are taken on record as Annexure P-3 (colly.) and exemption sought is granted.

CRM stands disposed of.

CRM-M-18801-2018

Prayer in this petition is for grant of regular bail in FIR No.58 dated 07.04.2017 under Sections 22, 61, 85 of NDPS Act, registered at Police Station City Phagwara, District Kapurthala.

Learned counsel for the petitioner submits that the petitioner was granted interim bail from 30.05.2017 to 20.09.2017 and thereafter, he has surrendered before the Court. Learned counsel has relied upon the zimni orders

passed by the trial Court/Judge, Special Court (Annexure P-3 colly.) to submit that after the challan was presented on 28.11.2017, charges were framed on 17.01.2018. Thereafter, on 06.02.2018, 20.02.2018, 13.03.2018, 27.03.2018 and 10.04.2018, the Presiding Officer was availing his earned leave and no effective proceedings were undertaken on these dates.

Learned counsel further submits that perusal of the subsequent orders dated 08.05.2018, 22.05.2018, 02.07.2018, 23.07.2018, 07.08.2018, 28.08.2018 and the last order dated 18.09.2018 further shows that after the Presiding Officer of Special Court has relinquished the charge, no successor has taken over the charge and the case was put up before the Duty Officer/Additional Sessions Judge. From perusal of the order dated 28.08.2018, it is apparent that the Court, to whom the case of the petitioner was assigned, was withdrawn and no substituted Court has been provided.

Learned counsel for the petitioner thus submits that since February, 2018, the trial is standstill and no further action is taken. It is further submitted that the petitioner is in custody for the last about 01 year, 02 months and 17 days and is not involved in any other case under the NDPS Act. Learned counsel has further submitted that the entire investigation is conducted by ASI Sukhwinder Singh and no second Investigating Officer was called. A perusal of the FIR shows that even the search, in pursuance to the notice issued under Section 50 of NDPS Act, in which the petitioner has given his consent to be searched by the same officer, was conducted by ASI Sukhwinder Singh and therefore, it will be a debatable issue to be decided during the course of trial whether the judgment of the Hon'ble Supreme Court in **Mohan Lal Vs. State of Punjab, 2018 AIR (SC) 3853** will have any bearing on the facts of the present

case.

Learned State counsel has filed the custody certificate dated 16.10.2018 and on instructions from ASI Daya Nand, has not disputed the aforesaid factual position and on the basis of certified copies of the interim orders (Annexure P-3 colly.), placed on record by the petitioner, has not disputed that in the trial, no effective proceedings like recording of the prosecution evidence have taken place.

Without commenting anything further on merits of the case, considering the aforesaid facts, this petition is allowed and the petitioner is directed to be released on regular 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

17.10.2018
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No