

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

**CRM-M No.28790 of 2018
Decided on: 18.07.2018**

Jagat Ram

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

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

Mr. Sidakmeet Singh Sandhu, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioner prays for grant of regular bail under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.186 dated 02.06.2014, for offence punishable under Sections 22/61/85 of the Narcotic Drugs and Psychotropic Substances Act (in short 'the NDPS Act') and 61/1/14 of the Excise Act, registered at Police Station Chheharta, District Amritsar.

Counsel for the petitioner has submitted that on 23.04.2018, while granting regular bail to co-accused – Ravinder Kumar, in CRM-M No.15274 of 2018, the following order has been passed:-

“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 ad hoc HC on 02.06.2014 and was working as ad hoc 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 ad hoc 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.”

Counsel for the petitioner has further submitted that the allegation against the petitioner are identical and he is not involved in any other case under the NDPS Act.

Counsel for the State has filed the Custody Certificate today in the Court and as per the Custody Certificate, the petitioner has undergone 06 months and 29 days of judicial custody and he is not involved in any other case under the NDPS Act.

Without commenting anything on merits of the case and considering the fact that the investigation is complete; the co-accused of the petitioner namely Ravinder Kumar has already been granted the concession of regular bail; the petitioner 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 *ad hoc* HC on the date of registration of the FIR, this petition is allowed and the petitioner is ordered to be released on bail subject to their furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for

cancellation of bail, if the petitioner is found involved misusing the concession of bail, in any manner.

18.07.2018
yakub

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No