

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM No. M-30899 of 2018

Date of decision:- JULY 30, 2018

MAHENDER KUMAR

....PETITIONER..

VS.

STATE OF HARYANA

....RESPONDENT..

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. P.K. Ganga, Advocate,
for the petitioner.

Mr. C.S. Bakshi, Additional Advocate General, Haryana.

JASPAL SINGH, J. (Oral)

By virtue of instant petition preferred under Section 439 of the Code of Criminal Procedure (for short, "Cr.P.C."), petitioner has sought concession of bail during pendency of trial, in case FIR No.26, dated 10.03.2016, under Sections 21/22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Baragudha, District Sirsa.

2. As per the allegations unfolded by the prosecution, on 10.03.2016, SI Jagir Singh and other police officials were present near Govt. School of village Chhatriya in connection with general patrolling and crime detection duty. In the meanwhile, a person was seen on a motorcycle carrying a bag on his shoulder from the side of village Chhatriya, who on seeing the police party became perplexed and tried to slip away from the spot after leaving his motorcycle. However, he was apprehended on the basis of suspicion and when accosted, he disclosed his name as Devi Lal

and when he was subjected to personal search, intoxicant of 14 bottles of Rexcof/cough syrup were recovered from him. As far as petitioner is concerned, he was not present at the spot or accompanying his co-accused Devi Lal. Rather, as per the case of prosecution, when Devi Lal was subjected to custodial interrogation, he disclosed that contraband i.e. 14 bottles of Rexcof/cough syrup was purchased by him from present petitioner-Mahender Kumar and on the basis of disclosure statement of co-accused Devi Lal, petitioner was arrested and subjected to custodial interrogation, during which he is alleged to have suffered an extra-judicial confession on 11.03.2016 regarding his involvement. After the completion of investigation, report under Section 173 (2) Cr.P.C. has already been presented in the Court of Judicial Magistrate, which was subsequently committed to the Court of Special Judge.

3. No recovery of any narcotic drug or psychotropic substance i.e. 14 bottles of rexcof was effected from the possession of petitioner either at the time of his arrest or subsequent thereto.

4. Here, it would also be pertinent to mention that co-accused of petitioner namely Devi Lal has already been granted the concession of bail by trial court. The case of petitioner is rather on better footings than that of his co-accused Devi Lal, from whom, alleged recovery of 14 bottles of Rexcof/cough syrup was effected. Moreover, petitioner is cooling his heels behind the bars since the date of his arrest i.e. 10.03.2016. On the doctrine of parity, petitioner also deserves the concession of bail.

5. Taking into consideration the aforesaid aspects but without expressing any opinion on the merits of the case, instant petition is allowed

and petitioner is ordered to be released on bail, during pendency of trial, at the satisfaction of trial Court/CJM/Duty Magistrate.

JULY 30, 2018
P.Sharma/sonika

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned: Yes

Whether reportable: Yes/No