

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRIMINAL MISC.-M-36789 OF 2018 (O&M)

DATE OF DECISION: NOVEMBER 26, 2018

Sham Lal @ Shama

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present: Mr.Sandeep Wadhawan, Advocate for the petitioner.

Mr.TPS Chawla, Deputy Advocate General, Punjab.

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TEJINDER SINGH DHINDSA, J.

Petitioner seeks regular bail pending trial in case FIR No.112 dated 7.8.2016, under Sections 22,61,85 of the NDPS Act registered at Police Station Maqsudan, District Jalandhar.

As per prosecution version, an alleged recovery of 20 injections containing 2 ml. each was effected and as per report of the chemical Examiner, the same was found to be containing Buprenorphine hydrochloride.

Learned counsel for the petitioner has argued that the Investigating Officer was the same official who had conducted the search of the petitioner and had effected the alleged recovery. As per learned counsel, said factor alone would be sufficient to infer bias and malafides. Reliance is placed upon

judgment of Hon'ble Supreme Court in **Mohan Lal v. The State of Punjab** (Criminal Appeal No.1880 of 2011 decided on 16.8.2018).

Learned State counsel, upon instructions from ASI Rajinder Kumar, Police Station Maqsudan, District Jalandhar, concedes to the facts that the official who conducted the search of the petitioner has also conducted the investigation.

On the previous date of hearing, the prayer for bail was opposed by State on the ground that one more case under the NDPS Act i.e. FIR No.58 dated 27.5.2014, under Sections 22, 27-A, 61 and 85 of NDPS Act is registered against the petitioner at Police Station Kartarpur, District Jalandhar. It was sought to be contended that the petitioner is a habitual offender and as such, is not entitled to the benefit of bail.

Learned counsel for the petitioner has met such objection taken on behalf of the State as he has furnished before this Court today certified copy of judgment dated 3.7.2018 passed by the Judge, Special Court, Jalandhar and in terms of which, the petitioner has earned acquittal in FIR No.58 dated 27.5.2014.

Petitioner has suffered incarceration since 7.8.2016. Trial is to take some time to conclude inasmuch as out of ten prosecution witnesses, six have been examined till date.

In view of the submission advanced by learned counsel representing the petitioner, prayer is allowed. Petitioner be enlarged on bail subject to satisfaction of the trial Court/Duty Magistrate concerned.

It is, however, made clear that the observations

contained in this order are confined only with regard to examining the prayer of the petitioner for grant of bail and would have no bearing on the merits of the case.

Disposed of.

NOVEMBER 26, 2018
SRM

(TEJINDER SINGH DHINDSA)
JUDGE

<i>Note:</i>	<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
	<i>Whether Reportable:</i>	<i>Yes/No</i>