

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

253

CRM-M-39071-2018

Date of Decision: October 05, 2018

Parmod Kumar @ Laddi

.....Petitioner(s)

versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. V.K. Jindal, Advocate for the petitioner.

Mr. R.S. Bains, DAG, Punjab.

Sudhir Mittal, J. (Oral)

The petitioner-Parmod Kumar @ Laddi son of Sh. Nand Lal, is an accused in FIR No.3, dated 03.01.2014, registered at Police Station Tarn Taran, District Tarn Taran, under sections 21 of the NDPS Act, 1985, as allegedly four kilograms of *heroin* was recovered from him.

2. Learned counsel for the petitioner submits that the petitioner has been in custody since the date of the registration of the FIR. Thus, he has suffered actual incarceration for a period of four years and nine months. The recovery was effected by one Inderjit Singh, who was Head Constable at that point of time and thus, section 42 of the NDPS Act, 1985 has been violated as only a substantive Assistant Sub-Inspector can carry out search and recovery operations. Moreover, the trial Court is proceedings at a snail's pace, as only two prosecution witnesses have been examined till date out of total twenty three witnesses. Thus, the petitioner be released on regular bail.

3. Learned State counsel opposes the prayer on the ground that a very heavy quantity of contraband was recovered from the petitioner. There are nine other cases pending against him out of which two are under the NDPS Act, 1985. Out of these two cases, the petitioner has been convicted in one case and sentenced to RI for 10 years.

4. A perusal of FIR No.1 dated 12.06.2017 (Anneuxre P-7) shows that the said FIR was registered against the Investigating Officer of the present case viz. Inderjeet Singh on the ground that he investigated high profile cases under the NDPS Act, 1985 even though, he was not holding rank of Assistant Sub Inspector. Ultimately, he was dismissed from service vide order dated 15.06.2017 (Anneuxre P-8), on the ground that despite holding a substantive rank of Head Constable, he intentionally investigated cases under NDPS Act, 1985 involving recovery of large quantity of drugs in order to help the accused persons. Thus, it is apparent that on the date of registration of the FIR, the Investigating Officer was not holding the rank prescribed under the law. Moreover, the petitioner has been in custody for almost five years and the trial does not appear to be nearing completion.

5. In view of the above, this petition is allowed and the petitioner- Parmod Kumar @ Laddi son of Sh. Nand Lal, is ordered to be released on bail on his furnishing bail and surety bonds to the satisfaction of learned trial Court concerned.

October 05, 2018
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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes
Whether Reportable : No