

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CrI. Misc. No. M-3920 of 2018

Date of Decision: February 09, 2018

Rajinder Kumar

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. D.S. Malwai, Advocate for the petitioner

Mr. Kirat Singh Sidhu, DAG, Punjab

Sudhir Mittal, J. (Oral)

The petitioner seeks grant of regular bail in case FIR No. 53 dated 21.04.2016, registered under Section 22 of NDPS Act at Police Station Sadar Sangrur, District Sangrur.

According to the FIR, recovery of 12 bottles of rexcof has been made from the car being driven by the petitioner in which Bikkar Singh was also sitting.

Learned counsel for the petitioner submits that during enquiry it was found that Bikkar Singh was responsible for carrying the contraband and that the petitioner was only driver of the vehicle and, therefore, he was placed in column No. 2 in the challan that was presented in the Court. It is further submitted that the investigation is complete and the trial is going on. The petitioner has been summoned under Section 319 Cr.P.C. and there is no allegation that he misused the concession of bail which was earlier granted to him.

As per custody certificate dated 09.02.2018 which has been produced in the Court and has been taken on record, the petitioner has undergone the actual custody of four months and nine days.

Learned State counsel submits that infact the petitioner was the owner of the car from which the contraband was recovered and, therefore, he would also be guilty of conscious possession of the contraband.

It is further submitted that the petitioner has been convicted in FIR No. 149 dated 8.8.2015 under Section 21 of the NDPS Act and has been sentenced to undergo rigorous imprisonment for three months. Another case under the NDPS Act is also pending against him.

Whether the petitioner is guilty of conscious possession of the contraband is a matter of trial, suffice it to say that for recovery of 12 bottles of rexcof which is marginally above the commercial quantity, the petitioner has already been in custody for over four months. There is no allegation that he misused the concession of regular bail on the earlier occasions. The conviction earlier was for three months only and, thus, it appears that the petitioner is a consumer of narcotics and is not involved in sale or distribution.

Thus, I deem it appropriate to order the release of petitioner on regular bail. The petition is allowed and the petitioner – Rajinder Kumar is ordered to be released on bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Judge Special Court concerned. It is, however, made clear that observations made in this order will not affect the merits of the case.

February 09, 2018

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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No