

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-43589-2018

Date of Decision: 22.11.2018

ROSHAN @ DRC

...PETITIONER

vs.

STATE OF HARYANA

..RESPONDENT

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. R.S.Dhull, Advocate, for the petitioner.

Mr. Himmat Singh, DAG, Haryana.

ARVIND SINGH SANGWAN,J

Prayer in this petition is for grant of regular bail to the petitioner in case FIR No. 50 dated 11.02.2018 under Sections 15/20/61/85 of the NDPS Act and Sections 61/1/14 of Excise Act, registered at Police Station City Narwana, District Jind.

Learned counsel for the petitioner submits that as per the allegations in the FIR, ASI Raj Kumar, on receiving secret information that petitioner is running a hotel and is involved in the sale of narcotics, raided the premise of the petitioner without reducing the said secret information in writing or sending the same to the police station for registration of FIR. Counsel further submits that after notice under Section 50 of the NDPS Act was served, DSP was called at the spot but no fresh option was given to the petitioner by the DSP and even the notice which was served to the petitioner and co-accused Mohit by the I.O. was not attested by the DSP for verifying the aforesaid facts.

Learned counsel further submits that ASI Raj Kumar is the complainant and the Investigating Officer and he himself served the notice and conducted the entire investigation. He further submits that it will be a debatable issue whether the judgment of Hon'ble Supreme Court rendered in *Mohan Lal vs. State of Punjab*, 2018 AIR (SC) 3853 will have a direct bearing on the present

case as no second Investigating Officer was called.

Counsel further submits that the petitioner stands acquitted in another FIR No. 21 of 2014 registered under Section 354-B of IPC. He further submits that co-accused, namely, Mohit, has already been granted the concession of regular bail vide order dated 10.07.2018 passed in CRM-M-27493-2018.

Counsel further submits that the case is now fixed for prosecution evidence and the petitioner is in judicial custody since 11.02.2018 and conclusion of trial will take long time.

Learned State counsel, on instructions from ASI Parveen Kumar, has filed custody certificate and submits that in one FIR No. 55 of 2015 registered under Section 376-D IPC, the petitioner is facing the trial whereas in FIR No. 21 of 2014 registered under Section 354-B, he stands acquitted, however, the petitioner is not involved in any other case under the NDPS Act and is in judicial custody for the last more than 09 months and 10 days.

Heard learned counsel for the parties.

Without commenting anything upon the merits of the case, considering the submissions made by learned counsel for the parties and also in view of the judgment of Hon'ble Supreme Court rendered in Mohan Lal's case (supra), the present petition is allowed and petitioner is directed to be released on bail, subject to his furnishing bail bonds to the satisfaction of trial Court/Illaq Magistrate/Duty Magistrate concerned.

22.11.2018
smriti

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether Reportable	: Yes/No