

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-44662-2018
Date of Decision: 15.10.2018

Malkit Singh @ Meeta

...Petitioner

vs.

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Ms. Poonam Tara Prasher, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J

Prayer in this petition is for grant of regular bail to the petitioner in case FIR No. 138 dated 03.10.2017 under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Kamboj, District Amritsar Rural.

Learned counsel for the petitioner submits that the petitioner is in custody since 24.08.2018. She further submits that co-accused of the petitioner, namely, Balkar Singh @ Tur and Malkit Singh @ Keetu @ Keepu have been granted concession of regular bail, vide order dated 12.10.2018 passed in CRM-M Nos.9483 and 22171 of 2018. The operative part of the order is reproduced as under:-

“Counsel for the petitioner – Balkar Singh has submitted that as per the allegations in the FIR, which was registered on the basis of a secret information, the Investigating Officer, who received the secret information, himself conducted the entire investigation. It is further submitted that recovery of 265 gms of heroin was effected from Balkar Singh @ Tur whereas 255 gms of heroin was

effected from the co-accused – Malkit Singh @ Keetu @ Keepu.

*Counsel for the petitioners has also submitted that it will be a debatable issue whether the judgment rendered by the Hon'ble Supreme Court “**Mohan Lal vs State of Punjab**” passed in Criminal Appeal No.1880 of 2011, decided on 16.08.2018, will be applicable in this case or not as the informant and the Investigating Officer are the same person.*

Counsel for the petitioners has further argued that both the petitioners are not involved in any other case and they are in custody since 10.10.2017 and no prosecution witness has been examined, so far despite the fact that charges have been framed against the petitioners. It is further submitted that the co-accused of the petitioners namely Dilbagh Singh has already been granted the concession of interim anticipatory bail by this Court. It is also submitted that the conclusion of the trial will take long time.

Counsel for the State, on instructions from ASI Ravinder Singh, has not disputed the aforesaid fact but opposed the prayer for bail of the petitioners.

Without commenting anything on merits of the case, considering the fact that the petitioners are the first offenders; the FIR was registered on the basis of a secret information and thereafter, the same Investigating Officer conducted the entire investigation and also in view of the fact that the petitioners are in custody for the last more than 01 year and the trial is at the stage of recording the statement of the prosecution witnesses; the petitioners are not involved in any other case and conclusion of the trial is likely to take some time, these petitions are allowed and the petitioners namely Balkar Singh @ Tur and Malkit Singh @ Keetu @ Keepu are directed to be released on bail subject to their furnishing bail/surety bonds to the satisfaction of

the trial Court/Duty Magistrate/Illaqa Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioners, in case they are found involved in any other case or misusing the concession of bail, in any manner.”

Learned State counsel has filed custody certificate and has not disputed the fact that the petitioner is not involved in any other case.

Without commenting anything on the merits of the case, considering the fact that the petitioner is in custody since 24.08.2018; he is not involved in any other case and conclusion of the trial is likely to take some time, the present petition is allowed and the petitioner is directed to be released on bail, subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaqa Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

15.10.2018
smriti

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No