

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-7905-2018

Date of decision:-11.5.2018

Karambir Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.G.S. Sandhu, Advocate
for the petitioner.

Mr.Neeraj Poswal, AAG, Haryana.

H.S. MADAAN, J.

This petition for regular bail has been filed by petitioner – Karambir Singh – an accused in FIR No.1235 dated 3.12.2017, under Section 21 of NDPS Act, registered at Police Station City, Karnal.

Briefly stated, the prosecution story is that on 3.12.2017, a police party from Police Station City, Karnal led by ASI Vinod Kumar while on patrol duty at Shiv Colony, Karnal had apprehended the accused and recovered many bottles of plastic coloured white having red cap having label of NRX Camphorated opium tincture BP. He was arrested in this case. The recovered contraband was taken into possession after drawing samples. A ruqa was sent to the police station, on the basis of

which formal FIR was registered and the case was investigated. The petitioner had filed applications for regular bail in the Court of Sessions, which were declined by Judge, Special Court, Karnal, for the second time on 5.2.2018, as such, he has approached this Court with same request.

Notice of the petition was given to respondent – State and counsel representing the State has put in appearance.

I have heard learned counsel for the parties besides going through the record.

Learned counsel for the petitioner has submitted that as per FSL report, Opium and Ethyl Alcohol were detected in the samples and morphine content of the sample was in the range of 0.05 to 0.06 per cent, which does not fall under the NDPS Act since as per the definition of Opium derivative, all preparation containing more than 0.2% of morphine or containing any diacetylmorphine are required to bring the alleged substance within the ambit of narcotic substance. Furthermore, several mandatory provisions have been violated while apprehending the accused. Therefore, the petitioner be granted concession of regular bail.

On the other hand, learned State counsel has submitted that the recovery involved in this case amounts to commercial quantity. The entire contents of bottles are to be considered and not particular contents. The aspects of violation of mandatory provisions shall be seen during the trial and not at this stage. He further states that there are reasonable chances of the petitioner trying to tamper with the prosecution evidence and also to abscond.

After hearing the rival contentions of the parties, I find that

while considering the question of grant or refusal of regular bail to an accused, the merits of the case are not to be gone into deeply. Since the trial against the accused is going on, all those aspects are bound to be considered by the trial Court while determining whether the prosecution had successfully proved its charge against the accused or not. Though merits of the case are not to be altogether ignored, but then for the grant of bail, there are other considerations also, likely, whether the petitioner has got a previous criminal record or not; whether there are chances of his tampering with the prosecution evidence, if granted or not; and whether he is likely to abscond, if granted bail or not. Therefore, considering all the facts and circumstances of the case, I am of the view that it is not a fit case to grant concession of regular bail to the petitioner. The apprehension expressed by the State counsel that if petitioner is granted bail, there is every likelihood to his absconding and even tampering with the prosecution evidence cannot be brushed aside lightly.

Therefore, finding no merits in the petition, the same stands dismissed.

11.5.2018
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(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No