

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Misc.-M-16661 of 2019

Date of Decision: April 29, 2019.

Ashwani Kumar @ Bittu

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAJBIR SEHRAWAT.

Present: Mr.Amit Dhawan, Advocate, for the petitioner.
Mr.Prabhjot Singh Walia, AAG, Punjab.

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Rajbir Sehrawat, J. (Oral)

Present petition has been filed for seeking bail pending trial in FIR No.173 dated 13.10.2018 for the offences punishable under Sections 379-B, 34 of IPC and under Section 21 of the NDPS Act, 1985, Police Station Navi Baradari, District Jalandhar.

Learned counsel for the petitioner contends that the petitioner has been wrongly involved in this case. It is further submitted that even if the case of the prosecution is taken to be correct, then also the petitioner had not actually snatched the purse from the complainant. The allegation is only regarding attempt of snatching. Hence, Section 379-B IPC is not made out against the petitioner. Insofar as allegations against the petitioner under the NDPS Act are concerned, it is submitted that even as per the case of the prosecution, the alleged recovery from the petitioner is of 120 grams of intoxicant powder containing Alprazolam. However, as per the FSL report, the actual quantity of the prohibited substance which has been found in the entire recovery is only .56%, which is less than even the small quantity prescribed for this substance. Learned counsel for the petitioner has relied

upon the judgment of this Court dated 21.08.2018 rendered in the case of ***Rajvir @ Raju v. State of Punjab*** in CRM-M-35080 of 2018 to support his contention. It is further submitted that petitioner is in custody since 13.10.2018. The challan has already been filed. The petitioner is not required for any investigation purposes. There is no other case against the petitioner under the NDPS Act.

On the other hand, learned State counsel, being instructed by ASI Ram Rattan, submits that the petitioner is involved in a heinous crime of snatching the purse from a lady and also in drug trafficking. Therefore, the petitioner does not deserve any concession of bail. However, it is not disputed that the alleged purse was handed over to the police by the complainant herself. It is also not disputed that the quantity of prohibited substance found in recovery is less than even the small quantity; as per the FSL report, and that there is no other case against the petitioner.

In view of the above facts and circumstances, but without expressing any further opinion on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial subject to his furnishing bail bonds/surety to the satisfaction of the Trial Court/Duty Magistrate, concerned.

April 29, 2019

mohinder

(RAJBIR SEHRAWAT)

JUDGE

Whether speaking/reasoned

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Yes/No

Whether Reportable

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Yes/No