

Crl. Misc. No. M-41595 of 2018

Date of Decision: January 21, 2019

Sajjan @ Mali

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. S.P.S. Sidhu, Advocate for the petitioner

Mr. Luvinder Sofat, AAG Punjab

Sudhir Mittal, J. (Oral)

The petitioner seeks grant of regular bail in case FIR No. 13 dated 18.06.2018 under Section 22 of the NDPS Act, 1985, registered at Police Station State Special Operation Cell, Fazilka, District Fazilka.

Learned counsel for the petitioner submits that the petitioner was arrested in another FIR and allegedly on his confessional statement while in custody recovery of the alleged contraband was made. No independent witness was associated with the recovery and, thus, false implication can not be ruled out. The petitioner has been in custody since 18.06.2018. There is no other case under the NDPS Act, 1985 pending against the petitioner and the trial is not likely to be concluded at an early date as only one PW has been examined out of six PWs. Thus, the petitioner may be released on regular bail.

Custody certificate dated 19.01.2019 prepared by Sh. Lalit Kumar Kohli, PPS, Deputy Superintendent, Central Prison, Faridkot, has been filed in the Court today and the same is taken on record.

According to this certificate, the petitioner has been in custody for seven months. There are two other criminal cases pending against him but neither of them is under the NDPS Act, 1985. In a third case registered *inter alia* under

Section 307 IPC the petitioner has been acquitted.

Learned State counsel on instructions from ASI Rohit Marujia submits that at the time of recovery, a Gazetted Officer was associated. The petitioner himself led the police party to the spot and got the recovery effected. Moreover, second PW has been examined in chief and his cross-examination is due to be done on 25.01.2019 and for the said date two more witnesses have been bound down and thus, the trial is progressing at a quick pace.

There is no denial of the fact that the recovery was effected on the basis of confessional statement of the petitioner while in police custody. That apart the custody certificate shows that there is no other criminal case under the NDPS Act, 1985 pending against the petitioner. Although two more witnesses have been bound down for 25.01.2019, the trial may not be concluded at an early date as is contended by learned counsel for the petitioner.

Keeping in view the custody period of the petitioner, I am of the opinion that he deserves to be released on regular bail.

Accordingly, the petition is allowed and the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court concerned.

January 21, 2019
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[SUDHIR MITTAL]
JUDGE

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