

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

**CRM-M No.20695 of 2019
Decided on: 26.11.2019**

Abdul Basit

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Ashok Giri, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this 2nd petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.318 dated 01.09.2017, for offence punishable under Section 22 of the Narcotic Drugs and Psychotropic Substances Act (in short 'the NDPS Act') registered at Police Station Phillaur, District Jalandhar (Rural).

The first petition seeking regular bail to the petitioner, was earlier dismissed as withdrawn on 20.03.2018.

Counsel for the petitioner has submitted that since the petitioner has completed the 02 years of judicial custody and the trial is still going on, therefore, the petitioner has filed the 2nd petition for bail.

Counsel for the petitioner has relied upon the order dated 27.11.2018 passed in CRM-M No.16091 of 2018 vide which the co-accused Ibrahim Khan was granted the concession of regular bail, by passing the following order:-

“...Counsel for the petitioner submits that the petitioner was arrested on 01.09.2017 and the FIR was registered as he was found driving the vehicle in which co-accused who was carrying two bags containing contraband was recovered. He further submits that the petitioner, thereafter, was granted interim bail vide order dated 20.12.2017 passed in CRM-M47734-2017 awaiting the report of FSL and, thereafter, the petitioner has surrendered before the trial Court on 07.02.2018 and since then, he is in custody and facing the trial.

Counsel for the petitioner further submits that the petitioner is not involved in any other case.

On 24.09.2018, it was submitted by learned counsel for the petitioner that the petitioner, in fact, is the part time driver and he was engaged by co-accused Abdul Rahiman, owner of the car, on payment of Rs.500/- and learned State counsel was directed to verify this fact.

Learned State counsel, on instructions from ASI Harjinder Kumar, submits that the aforesaid fact has been verified from the President of Taxi Union, namely, Rihan, who has made a statement on 24.11.2018 before the Investigating Officer that the petitioner is, in fact, a part time driver...”

Counsel for the petitioner has further argued that the petitioner is not involved in any other case and since the petitioner was only an occupant of the car, the question regarding the conscious possession of the contraband is yet to be decided by the trial Court.

Counsel for the State, on instructions from ASI Girdish Ram and on the basis of the Custody Certificate dated 13.05.2019 has not disputed that the petitioner is not involved in any other case and he is in custody since 02.09.2017. It is further argued that as on today, only challan has been presented and even charges have not been framed.

Without commenting anything on merits of the case, considering the fact that the petitioner is not involved in any other case; he is in custody since 02.09.2017; challan stands presented, however, charges have not been framed and also in view of the fact that the trial is yet to commence; one of the co-accused of the petitioner namely Ibrahim Khan has already been granted the concession of regular bail and the conclusion of the trial is likely to take some time, the present petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

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

(ARVIND SINGH SANGWAN)
JUDGE

26.11.2019
yakub

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No