

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-20912-2019

Date of decision: 14.05.2019

Rafi @ Shaka

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

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

Mr. Sidakmeet Sandhu, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.37 dated 10.11.2018 under Section 22 of NDPS Act, registered at Police Station Patara, District Jalandhar (Rural).

Learned counsel for the petitioner relies upon the order dated 24.04.2019 passed in CRM-M-5630-2019 and CRM-M-8328-2019, vide which co-accused Varun Kumar @ Beenu and Ravinder Kumar were granted the concession of regular bail. The operative part of the order reads as under: -

“As per allegations in the FIR, the Investigating Officer found a scorio car parked on the roadside, in which four persons were sitting. On suspicion, he apprehended the driver and on asking, he disclosed his name as Teg Singh @ Tega and petitioners Ravinder Kumar and Varun Kumar @ Beenu were sitting in the car along

with one another persons namely Rafi @ Shaka. The Investigating Officer gave them an option to be searched before Magistrate or a Gazetted Officer and when they reposed faith on him, he conducted the search. It is further stated in the FIR that at the first instance, personal search of all four persons was conducted, in which nothing was recovered. Thereafter, search of the scorpio car was conducted, from which a polythene bag was recovered, concealed underneath the driver seat, which was containing 134 buprenorphine injection rexogetic 2 ml and 134 pheniramine maleate injections IP Avil 10 ml and the same were taken into possession and were sent for FSL examination.

A perusal of the custody certificate dated 04.03.2019 shows that none of the petitioner is involved in any other case under the NDPS Act and they are in custody since 12.11.2018.

SI Som Lal has submitted that during the investigation, it is found that owner of the scorpio car is Kulwant Kaur, wife of co-accused Teg Singh @ Tega, who was found driving the vehicle. It is further stated by him that challan has been presented, however, no prosecution witness has been examined.

From perusal of the FIR, it will be a debatable issue whether both petitioners Ravinder Kumar and Varun Kumar @ Beenu, from whom, during their personal search, nothing was recovered, were in conscious possession of the contraband, recovered underneath seat of the driver/co-accused Teg Singh @ Tega, whose wife is registered owner of the car.

Without commenting anything further on merits of the case, both these petitions are allowed and petitioners Varun Kumar @ Beenu and Ravinder Kumar are directed to be released on regular bail subject to furnishing their bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.”

Learned counsel for the petitioner submits that the petitioner was also one of the occupants of car and his case is on similar footings, as of aforesaid co-accused. It is further submitted that the petitioner is not involved in any other case.

Learned State counsel, on instructions from SI Som Lal, has not disputed the factual position.

Without commenting anything further on merits of the case, considering the aforesaid submissions made by learned counsel for the petitioner, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bond to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

14.05.2019
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No