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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-22578-2019 (O&M)

Date of decision-13.11.2019

Inderjit Singh

....Petitioner

Vs.

Union of India

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. D.S.Pheruman, Advocate for the petitioner.

Ms. Sharmila Sharma, Advocate for the respondent.

MANOJ BAJAJ, J.

Petitioner-Inderjit Singh has filed this petition for grant of regular bail in case FIR/NCB Crime No.45 dated 02.12.2018, under Sections 8, 21, 25, 29 and 60 of Narcotic Drugs and Psychotropic Substances Act, 1985 Act registered at Police Station NCB, Chandigarh. The petitioner is in custody since his arrest on 03.12.2018.

Notice of motion was issued on 10.07.2019 and pursuant to the same, Ms. Sharmila Sharma, Advocate appeared on behalf of the respondent to contest the petition. During the pendency of the petition, miscellaneous application was filed for grant of interim bail on medical grounds. The respondents filed separate reply for objecting these applications and opposed the prayer.

At the very outset, learned counsel for the petitioner does not

press his claim for grant of regular interim bail and seeks indulgence of this Court for grant of regular bail pending trial.

It is contended by learned counsel for the petitioner that the sample drawn from the alleged recovered contraband was sent for forensic analysis and as per the report, same contained the diacetylmorphine (heroin) and dextromethorphan. He contends that as per the report, percentage of the said chemical as contained in the NDPS Schedule comes to 22.2 % and the quantity would be falling within the small quantity. He has further placed reliance upon the judgment passed by the Hon'ble Supreme Court titled as ***“Hira Singh and another Vs. Union of India and another”***, 2017 (3) RCR (Criminal) 633, to contend that the issue of purity of the drug was considered and therefore, in view of the said judgment, the concession of bail deserves to be extended to the petitioner. A perusal of the above judgment of Hon'ble Supreme Court reveals that after noticing the issue raised by the appellants therein, the matter was referred to the larger Bench to consider the following questions:-

(a) Whether the decision of this Court in E.Micheal Raj 2008 (2) RCR (Criminal) 597, requires reconsideration having omitted to take note of entry no.239 and Note 2 (two) of the notification dated 19.10.2001 as also the interplay of the other provisions of the Act with Section 21?

(b) Does the impugned notification issued by the Central Government entail in redefining the parameters for constituting an offence and more particularly for awarding punishment?

(c) Does the Act permit the Central Government to resort

to such dispensation?

(d) Does the Act envisage that the mixture of narcotic drug and seized material/substance should be considered as a preparation in totality or on the basis of the actual drug content of the specified narcotic drug?

(e) Whether Section 21 of the Act is a stand alone provision or intrinsically linked to the other provisions dealing with “manufactured drug” and “preparation” containing any manufactured drug?”

Since it is not disputed by learned counsel for the petitioner that the issue before the larger Bench is still pending and therefore, cited judgment's decision is of no help to the petitioner. Further reliance has been placed upon the judgment passed by the Hon'ble Supreme Court, in ***Criminal Appeal No.1845 of 2010 arising out of SLP (Criminal) No.4135-2010***, titled as “***Jagdish Singh Vs. Union of India and another***”. In the said judgment, the High Court had stayed the order passed by the trial Court granting the bail to the accused on the ground that in a connected matter, the issue is pending before the Hon'ble Supreme Court. Considering the arguments, the Hon'ble Supreme Court proceeded to lift the stay order granted by the High Court and restored the trial Court's order granting the bail to the accused. The said judgment is not applicable in the facts and circumstances of the case as in the present case, the concession as prayed for has already been declined by the trial Court.

Learned counsel for the respondent has opposed the prayer on the ground that the contraband was recovered from the petitioner's possession.

Considering the above, this Court does not find any reason to release the petitioner on bail, at this stage.

Resultantly, petition is dismissed.

(MANOJ BAJAJ)
JUDGE

13.11.2019
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No