

CRM-M-22146-2019 (O&M)

Date of decision:20.05.2019

Sarmail Singh @ Saila

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Rishu Mahajan, Advocate
for the petitioner.

Mr. K.S.Aulakh, DAG, Punjab.

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RAJBIR SEHRAWAT, J. (ORAL)

Prayer in this petition filed under Section 439 of Cr.P.C. is for grant of bail pending trial in case FIR No.92 dated 23.08.2018 under Sections 21/22 of NDPS Act, registered at Police Station Gharinda, District Amritsar.

Learned counsel for the petitioner submits that the case against the petitioner is totally concocted. The recovery has been just to thrust upon the petitioner. Even as per the case of the prosecution, the alleged recovery from the petitioner is of 1020 loose tablets. However, the FSL report has found prohibited substance *Alprazolam* in these tablets. But even as per the FSL report, the quantity of prohibited substance found per tablet is only 0.476 mg. Accordingly, the entire quantity of prohibited substance found in the total recovery is less than even the small quantity prescribed for the substance. Learned counsel for the petitioner has relied upon the judgment of this Court dated 21.08.2018 rendered in ***Rajvir @ Raju Vs. State of Punjab in CRM-M-35080 of 2018***, to support his contention. It is further submitted that there is no other case under NDPS Act against the petitioner.

Challan has already been filed in this case. Therefore, the petitioner is not required for any investigation purposes. The petitioner is in custody since 18.02.2019. The trial shall take a long time.

On the other hand, learned counsel for the State, being instructed by ASI Pal Singh, submits that the recovery from the petitioner is very heavy. It is further submitted that there is another case under Excise Act against the petitioner. However, it is not denied that the actual quantity of prohibited substance found in the entire recovery, as per the FSL report, is less than even the small quantity prescribed for the substance. It is also not disputed that challan has already been filed in this case.

In view the above submissions made by counsel for the petitioner, 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.

(RAJBIR SEHRAWAT)
JUDGE

20.05.2019

Hemlata

Whether speaking/reasoned
Whether reportable

Yes / No
Yes / No