

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.52850 of 2018
Decided on: 16.10.2019

Soni

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

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

Mr. Vikramjit Singh, Addl. A.G., Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioner prays for grant of regular bail under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.243 dated 23.07.2016, for offence punishable under Section 15 of the Narcotic Drugs and Psychotropic Substances Act (in short 'the NDPS Act') at Police Station Madhuban, District Karnal.

Counsel for the petitioner relies upon the order dated 19.11.2018 passed by this Court in CRM-M No.16991 of 2018 granting regular bail to the co-accused of the petitioner namely Sunny. The operative part of the order dated 19.11.2018 reads as under:-

“...Learned counsel for the petitioner submits that as per allegations in the FIR, the petitioner along with one Soni son of Jagraj was coming in a car from the side of UP and on suspicion, their car was stopped by the police party. The driver of the car told his name as Soni son of Jagraj and co-passenger disclosed his name as Sunny son of Lal Singh i.e. the petitioner. The Investigating Officer/ASI Bahadur Singh gave them an option to be

searched either before a Gazetted Officer or a Magistrate. On this, both the accused persons gave an option to be searched by the Gazetted Officer and thereafter, the Investigating Officer, on mobile, called DSP, Headquarters, Karnal to reach at the spot and notice under Section 50 of the NDPS Act and consent memo were prepared and seen by the DSP. It is further submitted that in the challan submitted before the Court, DSP has only written 'seen' and therefore, it is subsequent to preparation of these documents i.e. notice and the consent memo and therefore, it will be a debatable issue whether the DSP was actually present at the spot or not. Learned counsel further submits that the petitioner is in custody since 02.08.2016 and is not involved in any other case and the case is still at the stage of recording the prosecution evidence.

Learned State counsel, on instructions from the Investigating Officer, has not disputed the factual position.

Without commenting on merits of the case, considering the aforesaid facts, 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."

Counsel for the petitioner has further submitted that the petitioner is also in custody since 02.08.2016 and a period of more than 03 years has passed and still the trial is not concluded.

Counsel for the State, on instructions from ASI Ashok Kumar, has not disputed the factual position but opposed the prayer for bail. It is further submitted that though the prosecution evidence is concluded, however, the proceedings before the trial Court has been stayed in another petition i.e. CRR No.2100 of 2017.

Without commenting anything on merits of the case, considering the fact that the co-accused of the petitioner has already been granted the concession of regular bail by this Court; the petitioner is in custody for a period of more than 03 years and conclusion of the trial is likely to take some time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

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

(ARVIND SINGH SANGWAN)
JUDGE

16.10.2019
yakub

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