

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

CRM-M No.32560 of 2019 (O&M)
DATE OF DECISION : 22nd NOVEMBER, 2019

Parveen Kumar

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

* * * *

Present : Ms. Deepshikha Chauhan, Advocate for the petitioner.
 Mr. M. K. Sangwan, Deputy Advocate General, Haryana.

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RAJBIR SEHRAWAT, J. (Oral)

The present second petition has been filed by the petitioner under Section 439 Cr.P.C. for grant of bail pending trial in case FIR No.653 dated 10.07.2018 registered under Sections 21-C & 25 of the NDPS Act 1985 at Police Station City Sirsa, District Sirsa.

Counsel for the State has submitted that the evidence of the prosecution has been started and it is being led at the right speed. Out of 14 witnesses, 5 witnesses have already been produced before the trial court. Still further it is submitted that some of witnesses have been summoned for the next date of hearing, which is fixed for tomorrow. Still further, it is submitted that even the remaining witnesses would be produced before the court on the date to be next fixed after tomorrow.

However, counsel for the petitioner has submitted that the petitioner is unnecessarily suffering incarceration since 13.07.2018. This is despite the fact that the petitioner is in continuous custody and is not

responsible for any delay in the trial, in any manner. Hence, the petitioner deserves to be released on bail.

Having regard to the alleged recovery effected from the petitioner, this court does not find it appropriate to interfere, at this stage, to order release of the petitioner on bail.

However, this court finds substance in the argument of counsel for the petitioner that the petitioner is being unnecessary incarcerated for such a long time. Hence, this court is of the view that the liberty of the petitioner cannot be left at the mercy or luxury of the witnesses of the prosecution, who are stated to be only the official witnesses, most of them being the police officers only. If the prosecution so desired, the said witnesses could have been produced by now. In any case all the remaining witnesses can, very well, be produced on one date also. Since, the counsel for the State has pointed out that some of the witnesses have already been summoned for tomorrow and remaining witnesses would also be examined on the date to be next fixed for hearing before the trial court, therefore, some coercive and preemptive directions deserves to be issued in this case, so as to ensure that the trial is not unnecessarily delayed any further only due to lapse on the part of the prosecution.

Accordingly, the prayer of the petitioner qua his release on bail, is declined.

However, it is ordered that prosecution shall positively produce before the trial court all the witnesses, who have been summoned for tomorrow. If any one of the said witnesses, is not

produced before the trial court tomorrow, then the trial court shall issue warrant of arrest against the said witness. The copy of the warrant of arrest so issued; shall also be endorsed to the Senior Superintendent of Police, Sirsa, who shall ensure that said witness(es) is/are taken into custody within a period of one week from the date of issuance of warrants. After being taken into custody, the said prosecution witness(es) shall be kept in protective custody at District jail, Sirsa till his/their examination and cross-examination is complete.

Counsel for the State has also pointed out that there are other witnesses as well, who have not been summoned by the trial court so far. Therefore, it is further ordered that the trial court shall summon all the remaining witnesses for the date to be next fixed after tomorrow. If so summoned witnesses also would not appear on the date to be fixed by the trial court then the same procedure, as mentioned above, shall be adopted qua those witnesses as well.

The petition is disposed of with directions as aforesaid.

Copy of this order be supplied to the learned State counsel under the signature of the Bench Secretary.

22nd NOVEMBER, 2019
'raj'

(RAJBIR SEHRAWAT)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>