

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-34379-2019(O&M)

Date of decision : 04.12.2019

Jagtar Singh

.....Petitioner

versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. K.V.S.Ahluwalia, Advocate
for the petitioner.

Mr. Bhupender Beniwal, AAG, Punjab

ANIL KSHETARPAL, J. (ORAL)

Petitioner prays for grant of regular bail in a criminal case arising out from FIR No.38, dated 19.11.2018, registered under Section 21 of the NDPS Act, at Police Station Patara, District Jalandhar (Rural),

As per the case of the prosecution, petitioner was travelling in a white colour car and on being stopped and searched 500 gram heroin was found in his conscious possession in the presence of Deputy Superintendent of Police, a Gazetted Officer.

Learned counsel appearing for the petitioner has submitted that the actual contents of Diacetylmorphine as per the report of Forensic Science Laboratory are only 38.79%. He further contended that actual contents of Diacetylmorphine would come to 193.95 grams and, thus, the recovery from the petitioner does not fall in commercial category as notified by the Government. He further contended that investigating officer as well as first informant-complainant are same and, therefore, the investigations are vitiated. In support thereof, he relies upon a judgment passed by the

Hon'ble Supreme Court in the case of **Mohan Lal vs. State of Punjab, AIR 2018 (SCW) 3853.**

On the other hand learned counsel for the respondent-State has opposed the application for grant of bail.

This court has considered the submissions.

At this stage, when only application for grant of bail is being considered, micro appreciation of evidence is not required.

As regards first argument of learned counsel, it may be noted that the question as to “whether neutral substances are to be taken into consideration while calculating the quantity recovered” is pending disposal before a larger bench of the Hon'ble Supreme court in the case of **Hira Singh and another vs. Union of India and another, (2017) 8 SCC 162.**

Still further, as regards reliance placed by learned counsel for the petitioner on the judgment passed in **Mohan Lal** (supra), the same is also pending re-consideration before a Larger Bench.

The menace of drugs is eating away youth of Northern India. Therefore, before granting bail, the Legislature in its wisdom has categorized various categories.

In view thereof, this court is not inclined to order release of the petitioner on bail, at this stage. The present petition is disposed of by observing that petitioner shall be entitled to move a fresh application after the references by the larger Bench are decided.

December 04, 2019
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No