

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

CRM-M-38285 of 2019
Date of Decision: 24.09.2019

Manphool

....Petitioner

Versus

State of Haryana

...Respondent

CORAM:HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Sushil Sheoran, Advocate
for the petitioner.

Mr. Rahul Mohan, DAG, Haryana..

MAHABIR SINGH SINDHU, J.(Oral)

Present petition has been filed under Section 482 Cr.P.C.
for quashing of impugned order dated 30.11.2018 (P-3), whereby the
trial Court cancelled the regular bail of the petitioner granted in FIR
No. 74 dated 10.04.2018, under Section 20 of the Narcotic Drugs and
Psychotropic Substances Act, 1985, registered at Police Station
Julana, District Jind.

Learned counsel for the petitioner contends that the
petitioner is in custody since 30.11.2018 and learned trial Court had
granted bail pending trial on 10.09.2018(P-2), but the same was
cancelled on 30.11.2018 merely on the ground that petitioner

concealed the pendency of CRM-M-31413 of 2018 before this Court for seeking bail pending trial in the above FIR.

Learned State counsel has opposed the prayer primarily on the ground that petitioner is a previous convict.

Heard learned counsel for the parties and perused the paper-book.

Perusal of the order dated 10.09.2018 passed by learned trial Court reveals that after considering the conviction in the earlier case, the petitioner was granted concession of bail pending trial and paragraph No.3 of the order reads as under:

'After hearing argument and perusing the record this Court does not find any reason to decline this bail application, in view of fact, that petitioner-accused is in custody w.e.f. 18.04.2018; that recovery of 925 grams charas (cannabis) was effected from prime accused Ramesh, who has been released on bail after filing challan v.o.d. 11.07.2018; that petitioner-accused is involved in this case u/s 27-A pursuant to disclosure statement of prime accused Ramesh; that petitioner-accused has been released on bail in another NDPS case as on 8 July 2016, in which, he was convicted, after undergoing sentence period more than 4 years; that charges have been framed and so trial would take sufficient time by examining witnesses and thus, no fruitful purpose would be served by keeping him in custody longer. Looking into entire facts and circumstances and without expression any opinion on the merit of

the case, petitioner-accused is admitted to regular bail subject to furnishing bonds in the sum of Rs. One Lac....'

The above order stands cancelled merely on the ground that CRM-M-31413 of 2018 was pending before this Court for seeking bail in that very FIR.

No doubt in a given case the concealment of fact is very relevant consideration for declining the discretionary relief, but learned trial Court had granted the bail on 10.09.2018 after considering the entire material on record on merits of the case. Thus, merely that a parallel petition was pending before this Court for seeking bail and non-disclosure or disclosure of the same would not change the fate of bail application decided by trial Court on 10.09.2018.

Even otherwise, after cancellation of bail on 30.11.2018 petitioner is in custody since then, therefore he has already suffered a lot for his non-disclosure. One hard fact is that petitioner was in custody when CRM-M-31413 of 2018 was filed before this Court and he was not a free man.

In view of the above, the present petition is allowed and order dated 30.11.2018(P-3) passed by learned Additional Sessions Judge, Jind is quashed. The petitioner be released on regular bail forthwith subject to his furnishing bail/surety bonds to the satisfaction of learned trial Court concerned.

However, it is made clear that above observations may

not be construed as an expression of opinion on the merit of the case pending before learned trial Court.

[MAHABIR SINGH SINDHU]
JUDGE

September 24, 2019
rashmi

Whether speaking/reasoned	Yes
Whether reportable?	Yes