Sr. No. 224

HIGH COURT OF JAMMU AND KASHMIR
ATJAMMU
(Through Video Conference)

Reserved on : 24.08.2020
Pronounced on: 31.08.2020

Bail App. No. 112/2020

Amanpreet Singh and others .....Applicant(s)

Through :- Mr. Rohan Nanda, Advocate
(on video conference from residence)

V/s

Union Territory of J&K .....Respondent(s)

Through :- Mr. Aseem Sawhney, Advocate
(on video conference from residence)

Coram: HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE
(through Video Conference from High Court, Jammu)

Judgment

1. The present application has been filed by the applicants seeking bail in FIR No. 105/2020 of Police Station, Jhajjar Kotli, Jammu for commission of offences under sections 8, 15, 25, and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short the NDPS Act) and 468 IPC after their application for grant of bail was rejected by the learned 2nd Additional Sessions Judge, Jammu on 10.07.2020.

2. The instant application has been filed on the ground that the applicants are innocent persons and in the event the bail is granted, they shall abide by all such conditions and terms to be imposed by this Court.

3. The respondent-Union Territory has filed the objections, in which it has been stated that on 20.06.2020 during checking at naka point, a truck bearing registration No. JK14C 0289 that was coming from Udhampur to Jammu, 30 polythene packets carrying Poppy Straw like substance were found. During checking, it was also found that forged plate No. JK14C 0289 was affixed over original plate No. PB06G 2487. During questioning, the driver disclosed his name as Amanpreet Singh, co-driver as Nishant Singh alias Hira Singh, whereas helper of the truck disclosed his name as Lovepreet Singh, applicant Nos. 1, 2 and 3 respectively herein. Thereafter, FIR (supra) under sections 8, 15, 25, and 29 of the NDPS Act was registered against the applicants. During investigation, the Poppy Straw was weighed and the same was found to be 32 KG 960 grams.

4. The respondent has stated that the applicants have committed serious offence against the society at large and in order to restore the confidence of general public in the administration of justice, the present application deserves to be dismissed. It is also submitted in the status report/objections that the challan against the applicants in the FIR (supra) has been produced in the court of 1st Additional Sessions Judge, Jammu and the next date of hearing was fixed on 20.08.2020.

5. Learned counsel for the applicants argued that the applicants are innocents and the contraband allegedly recovered from their possession falls within the category of intermediate quantity, as such, rigors of section 37 of the NDPS Act does not apply.

6. On the contrary, Mr. Aseem Sawhney, learned AAG argued that the applicants have not only committed the offence under the NDPS Act, but in

order to dodge the police, they have also committed the offence under section 468 IPC by changing the number plate of the truck in question. He further argued that the applicants are residents of Punjab and it would not be possible to secure their presence during trial in the event of grant of bail.

7. Heard and considered the rival submissions.

8. The quantity recovered from the truck is 32 Kg and 960 grams, which falls within the category of intermediate quantity, as such, rigors of section 37 of the NDPS Act does not apply. The respondent has not placed anything on record that the applicants are habitual offenders and they were involved in similar type of offences. The investigation has culminated into filing of the challan, which clearly shows that the presence of the applicants is not required for the purpose of investigation but during the trial. The allegation against the applicants are subject to proof during the trial. Taking into consideration that the quantity of the contraband falls within the category of intermediate quantity and also challan has been filed against the applicants, this Court is of the considered opinion that the applicants deserve to be enlarged on bail. So far as the contention of learned counsel for the respondent that the applicants are outsiders, that can be taken care of by directing the applicants to produce two local solvent sureties for securing their presence during trial and also they shall inform the concerned Station House Officer (SHO) about their location on the very first day of every month.

9. For all what has been discussed above, this application is allowed. The applicants are enlarged on bail on the following conditions:

(i) subject to furnishing of two local solvent sureties to the tune of Rs. 1,00,000/- each to the satisfaction of the trial court.

(ii) they shall furnish an undertaking that they shall intimate their whereabouts to the concerned SHO on the first day of every month.

(iii) they shall not contact with any of the prosecution witnesses during the trial and shall regularly appear before the trial court.

10. In the event of violation of any of the conditions mentioned above, the respondent can lay a motion for cancellation of bail of the applicants before the trial court.

11. Disposed of accordingly.

(RAJNESH OSWAL)
JUDGE

Jammu:
31.08.2020
Rakesh

Whether the order is speaking: Yes
Whether the order is reportable: Yes

HIGH COURT JAMMU & KASHMIR

RAKESH KUMAR
2020.08.31 14:12
I attest to the accuracy and
integrity of this document