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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.1769 of 2020 (O&M)
Date of decision: 08.10.2020

Rajesh

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Atul Lakhanpal, Sr. Advocate
with Mr. Arjun Lakhanpal, Advocate
for the petitioner.

Mr. Deepak Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this 2nd petition is for grant of regular bail to the petitioner in FIR No.62 dated 21.05.2017 registered under Section 15 of the NDPS Act and 201 IPC at Police Station Behal, District Bhiwani.

The earlier one was dismissed as withdrawn on 23.09.2019.

Counsel for the petitioner has argued that as per the allegations in the FIR, registered on the basis of a secret information that the co-accused Krishan, his wife Roshni, son Jitender and niece Vikas, in conspiracy with another co-accused Kanwar Sain, are indulged in the business of selling poppy husk from Rajasthan and are bringing huge quantity of the same in a mini truck. On this, the police came in action and recovered 15.05 quintal of chura post (poppy husk) from the custody of Krishan, who was arrested at the spot. After the arrest of Krishan, his disclosure statement was recorded, in which he has named Kanwar Sain and Vikas, who were arrested later on. It is

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further submitted that in the first disclosure of Vikram, two persons were named i.e. Sandeep and Rajesh. Learned senior counsel for the petitioner has referred to both the disclosure statements of Vikram to submit that in the second disclosure dated 03.09.2017, Vikram has specifically stated that he has wrongly named Rajesh in the case. It is, thus, argued that it is a matter of trial as to whether the petitioner was in conscious possession or involved in the business of narcotics.

Learned senior counsel for the petitioner has further referred to the order dated 18.11.2019 vide which two of the co-accused namely Kanwal Sain and Hukmi Chand @ Madu, were granted the concession of regular bail by this Court in CRM-M Nos.39216 and 39303 of 2019. He has also referred to another order dated 05.03.2020 passed in CRM-M No.8255 of 2020, vide which the accused Krishan, who was arrested from the spot and from whose possession, the contraband was recovered, has also been granted the concession of regular bail, after considering his long custody.

Learned senior counsel for the petitioner has also referred to the order dated 21.08.2020 passed by this Court in CRM-M No.23827 of 2020, vide which another accused namely Vikash has been granted the concession of anticipatory bail.

Counsel for the State has filed the Custody Certificate today in the Court and as per the Custody Certificate, the petitioner is in custody for the last 01 year and 05 months and at one point of time, he was declared as proclaimed offender, however, he was arrested in one another FIR registered on 12.01.2019 under Section 332, 353 IPC and on 26.04.2019 during the custody in the said case, he was taken in

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custody in the present FIR.

Counsel for the State has also submitted that the petitioner is involved in one more case registered under the Excise Act and Section 355 IPC and one case under Section 174-A IPC and in another case of NDPS Act, in which he is on bail.

Without commenting anything on merits of the case, considering the fact that the trial is still at the stage of recording the evidence of the prosecution witnesses and only 01 PW has been examined so far; the petitioner is in custody for the last 01 year and 05 months; the co-accused of the petitioner have already been granted the concession of bail and the conclusion of the trial will take long time due to COVID-19 situation, 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/Illaqa 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

08.10.2020
yakub

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No