IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-1043-2020
Date of decision: 20.05.2020

Ranjit Singh **...Petitioner**

Versus

State of Punjab **...Respondent**

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. J. P. Devgan, Advocate
for the petitioner.

Mr. Gaurav Garg Dhuriwala, Sr. DAG, Punjab.

ARVIND SINGH SANGWAN, J. *(Oral)*

This matter is being taken up for hearing through video conferencing due to outbreak of COVID-19.

This is the second petition that has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 87 dated 11.07.2019, registered under Sections 15, 22, 61 of the Narcotic Drugs & Psychotropic Substances Act, 1985 at Police Station City Fazilka, Tehshil and District Fazilka.

The first petition bearing CRM-M-49375-2019 filed by the petitioner jointly with co-accused Joginder Singh was dismissed as withdrawn qua him, whereas Joginder Singh was granted regular bail by this Court on 26.11.2019. The operative part of the order reads as under:

> "Counsel for the petitioners has submitted that he do press the present petition qua petitioner No.2 – Ranjit Singh, who was the conductor of the truck and he may be permitted to withdraw the petition qua petitioner No.2 –

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Ranjit Singh, at this stage.

Dismissed as withdrawn qua petitioner No.2 – Ranjit Singh, at this stage.

Counsel for the petitioners on behalf of petitioner No.1 has argued that as per the allegations in the FIR, the police party on suspicion stopped one truck bearing No.PB05-Y-6015 and there were two occupants in the truck and on enquiry, the driver disclosed his name as Joginder Singh (petitioner No.1 herein) and the other person sitting on the conductor side informed his name as Ranjit Singh. On search of the said truck, one plastic bag was recovered from the back side of the driver's seat, which was containing 10 Kgs of poppy husk and from the personal search of Ranjit Singh, conductor, 11 strips of intoxicant tablets were recovered from the right side of his pant.

Counsel for the petitioners on behalf of petitioner No.1 has further submitted that the recovery from the petitioner No.1 is of 11 Kgs of poppy husk, which falls in the non-commercial quantity and he is not involved in any other case. It is also argued that the investigation is complete and the conclusion of the trial is likely to take some time.

Counsel for the State, on instructions from the Investigating Officer has not disputed the factual position but opposed the prayer for bail of petitioner No.1.

Without commenting anything on merits of the case, considering the fact that the recovery effected from petitioner No.1 is of non-commercial quantity; he is not involved in any other case and is in custody from the last 04 months and also in view of the fact that the conclusion of the trial will take some time, this petition is allowed and petitioner No.1 namely Joginder Singh, is

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> directed to be released on regular 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, if petitioner No.1 – Joginder Singh, is found involved misusing the concession of bail, in any manner."

Learned counsel for the petitioner submits that the new ground for filing the present petition is that the petitioner is in judicial custody since 11.07.2019 and the trial is progressing at a very slow pace due to the present situation arisen on account of outbreak of COVID-19 and even the charges have not been framed so far and it will take a long time in conclusion of the trial.

Learned counsel for the petitioner further submits that a bare perusal of the FIR shows that 11 strips of intoxicant tablets were recovered from the petitioner, though in the later part of the investigation, it is mentioned that 11 strips of *Lomotil* tablets were recovered, therefore, it will be a debatable issue that when the intoxicant tablets were recovered, which were not loose tablets, the description of the same could have been mentioned in the FIR and the omission of the same makes the case doubtful.

Learned State counsel has not disputed the factual position, however, argued that the recovery effected from the petitioner is of commercial quantity.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the aforesaid submissions of learned counsel for the parties, the instant petition is allowed. The petitioner is ordered to be released on regular bail

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on his furnishing bail/surety to the satisfaction of the trial Court/Duty Magistrate concerned.

20.05.2020 **(ARVIND SINGH SANGWAN)**
Waseem Ansari **JUDGE**

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*

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