

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

222

CRM-M-1272 of 2020
Date of Decision: 15.10.2020

Rajni Kant @ Jaggi

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Arpandeeep Narula, Advocate,
for the petitioner.

Mr. Deepak Bhardwaj, DAG, Haryana.

AMOL RATTAN SINGH, J. (ORAL)

All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the COVID-19 pandemic.

By this petition, the petitioner seeks the concession of 'regular bail', upon FIR no.204, dated 04.09.2019, having been registered at Police Station Kalanwali, District Sirsa, alleging therein the commission of an offence punishable under Section 22-C of the NDPS Act, 1985.

The petitioner having been in custody for 13½ months, with no prosecution witness out of 12 having been examined so far, he would be entitled to the concession of bail in my opinion, on that ground alone, especially as there is no other criminal case registered against him.

It is to be also noticed that learned counsel for the petitioner has contended that there is a violation of Section 50 of the NDPS Act, 1985, though of course, learned State counsel submits that it would be only applicable where the recovery was effected from the person of the accused.

It is of course also to be noticed that the story almost in every FIR (especially in the State of Punjab, though this is a case from Haryana), where the recovery of contraband is shown to be made from any accused, (of not too large quantity but above commercial quantity), now is that it was recovered from a polythene bag that an accused was carrying or had just fallen on the ground.

Prior to the judgment of the Supreme Court in Arif Khan @ Agha Khan v. State of Uttarakhand 2018 (2) RCR (Criminal) 931, the 'normal story' in such FIRs was that the recovery was effected from the clothes/person of the accused.

Naturally therefore, when a story becomes a 'standard story' almost in every case, the court starts having doubts on the authenticity thereof.

Consequently, without making any comment on the actual merits of the case, keeping in mind all factors hereinabove, the petition is allowed, with the petitioner ordered to be admitted to bail to the satisfaction of the trial court/CJM/Duty Magistrate concerned.

October 15, 2020
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(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No