

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

201

**CRM-M-2313-2020
Date of Decision : 16.06.2020**

Balbir Singh @ Biru

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Naveen Sharma, Advocate
for the petitioner.

Mr. Amit Mehta, Sr. DAG, Punjab
for the respondent-State.

ARUN KUMAR TYAGI, J. (Oral)

The case has been taken up for hearing through video-conferencing.

The petitioner has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.70 dated 22.08.2019 registered under Sections 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') at Police Station Ludhiana (Rural), District Ludhiana.

The above-said FIR was registered on the basis of secret information received by the police party headed by S.I. Davinder Singh that accused Gulshan Kumar @ Monu, Pawan Kumar @ Om Parkash, Balbir Singh @ Biru (the petitioner) and Varinder Kumar @ Bunty were habitual of selling narcotic tablets in the area of Raikot and if nakabandi was conducted, they could be apprehended and recovery of narcotic tablets could be made from them. On nakabandi Gulshan Kumar @ Monu was apprehended and total 19000 tablets of Clovidol-100 SR

(Tramadol Hydrochloride tablet 100mg) were recovered from two polythene bags held by him. During investigation, Gulshan Kumar @ Monu disclosed that he used to purchase intoxicant tablets from co-accused Pawan Kumar in connivance with Varinder Kumar @ Bunt and used to supply the same to the petitioner-Balbir Singh @ Biru. On completion of investigation, the police charge-sheeted the petitioner along with his co-accused to face trial.

The petitioner has filed the present petition for grant of regular bail which has been opposed by learned State Counsel.

I have heard learned Counsel for the petitioner and learned State Counsel and gone through the relevant record.

Learned Counsel for the petitioner has argued that the petitioner has been falsely implicated in the case on the basis of disclosure statement of co-accused. The petitioner was not arrested on the spot. No recovery was made from the petitioner. There is no evidence as to his involvement in the crime except the disclosure statement which is not of any evidentiary value. Rigors of Section 37(1)(b) of the NDPS Act are not applicable qua him. Co-accused Pawan Kumar has been granted anticipatory bail by the Co-ordinate bench of this Court vide order dated 31.10.2019. Trial is likely to take long time and no useful purpose will be served by keeping the petitioner in custody. Therefore, the petitioner may be ordered to be released on regular bail.

On the other hand, learned State Counsel has argued that the petitioner is a habitual offender and is facing trial in another case. In view of the gravity of accusation, the petitioner does not deserve grant of regular bail and the petition may be dismissed.

Keeping in view the facts and circumstances of the case, nature of accusation and evidence against the petitioner with consequent non-applicability of Section 37(1)(b) of the NDPS Act qua him, parity of the case of the petitioner with that of co-accused Pawan Kumar and the fact that the trial is likely to take long time but without commenting on merits of the case, I am of the considered view that the petitioner deserves the concession of regular bail.

Therefore, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of bail bonds to the satisfaction of the trial Court/Chief Judicial Magistrate concerned.

However, the petitioner is granted regular bail subject to the condition that he shall not commit any similar offence and in case of commission of similar offence by him in future his bail in the present case shall also be liable to be cancelled on application to be filed in this regard.

16.06.2020

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(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No