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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-5395-2019(O&M)
Date of decision: 02.09.2020

Jonny Narrona

.....Petitioner

V/s.

State of Haryana

.....Respondent

CORAM: - HON'BLE MR. JUSTICE SANJAY KUMAR

Present: Mr. Vipul Jindal, Advocate, for the petitioner.

Mr. Sanjay Mittal, Additional Advocate General, Haryana.

Sanjay Kumar, J.

CRM-27368-2019

This application is ordered and the documents are taken on record as Annexures P-9 and P-10.

CRM-15308-2020

In the light of the final order passed in the main bail petition, this application has become infructuous and is accordingly dismissed.

CRM-M-5395-2019

The petitioner seeks regular bail under Section 439 Cr.P.C in FIR No. 695 dated 14.10.2018 on the file of Police Station Mujessar, Faridabad, Haryana, registered under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the Act of 1985'); Section 61 of the Excise Act, 1914; and Section 25 of the Arms Act, 1959.

The petitioner has been in custody since 14.10.2018.

As per the reply filed by the Assistant Commissioner of Police, Mujessar, District Faridabad, the petitioner was apprehended at the spot on 14.10.2018 though the co-accused succeeded in running away. One unlicensed country-made revolver with one live round of bore; ten boxes of unlicensed country-made liquor; two plastic sacks containing Ganja, one weighing 12 Kg. and the other 12.5 Kg, were recovered from his possession. The police also found and took into possession Rs. 18,69,240/- in cash.

It appears that the petitioner's co-accused has already been granted anticipatory bail by this Court. Further, the police completed investigation in the matter and submitted the challan on 15.12.2018. Six out of the listed sixteen prosecution witnesses have been examined. The next date fixed for the trial is 11.09.2020.

Though the total seized quantity of 24.5 Kg. of Ganja, if accepted, would be in excess of the commercial quantity of 20 Kg. prescribed under the provisions of the Act of 1985, it is an admitted fact that the samples drawn from both bags were not sent for testing. It appears that samples from only one bag were sent to the laboratory and the samples from the other bag were not sent. The petitioner made a specific allegation in this regard in para No.4 (v) of this petition but the reply baldly conceded the truth of the contents of this paragraph in toto, with nothing further.

There is no explanation forthcoming as to why samples from the second bag were not sent for testing to the Forensic Science Laboratory .

In the light of this vital lapse on the part of the State, the value to be attached to the alleged recovery of the second bag would have to be

examined by the trial Court at the relevant time. As the matter stands, the petitioner can only be accused of possession in relation to the one bag, wherefrom the samples were drawn and tested. As already stated earlier, the reply filed by the State does not even offer an explanation for the lapse in the investigation but in the absence of the second bag, the State cannot press into service Section 37 of the Act of 1985 to oppose this bail petition. Section 37 of the Act of 1985 would therefore have no application.

The other offences alleged against the petitioner, even if proved, would not entail imprisonment in excess of seven years. The petitioner is presently aged about 57 years and there is no possibility of the trial being completed expeditiously owing to the prevailing situation caused by the Covid-19 Pandemic. He would therefore be entitled to grant of relief at this stage, subject to conditions.

The petition is accordingly allowed directing the release of the petitioner on regular bail in FIR No. 695 dated 14.10.2018 on the file of Police Station Mujessar, Faridabad, Haryana, upon his furnishing a personal bond for a sum of Rs. 50,000/- along with two sureties for a like sum each to the satisfaction of the Illaqa/Duty Magistrate concerned. Further, the petitioner shall not offer any inducement, threat or promise to any person connected with the case.

(SANJAY KUMAR)
JUDGE

02.09.2020

rakesh

whether speaking/non speaking : Yes/no

whether reportable/non reportable : Yes/no