

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

201-3

**CRM-M-6670-2020
Date of Decision : 05.08.2020**

Makhan Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Ms. Amandeep Kaur, Advocate
for the petitioner.

Mr. H.S. Multani, AAG, 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 first petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.482 dated 23.11.2019 registered under Sections 22, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') at Police Station City Barnala, District Barnala.

Briefly stated the facts relevant for disposal of the present petition as alleged in the above-said FIR are that on 23.11.2019, when ASI Satwinder Pal Singh along with Constable Randeep Singh and PHG Balwant Singh was present on Gatakhana Chowk, Barnala secret information was received by him that the petitioner and his co-accused Harwinder Singh were bringing intoxicant tablets in Swift Dezire Car bearing registration No.DL-9CW-8203 and if nakabandi was conducted they could be apprehended with the contraband. The above-said FIR was registered. Nakabandi was conducted. On search 250 strips of Clovidol-100 SR each strip containing 10 tablets totalling 2500 tablets were recovered from carry bag kept by the petitioner.

The petitioner, who is in custody since 23.11.2019, has filed the present petition for grant of regular bail.

Petition has been opposed by learned State Counsel. However, no reply has been filed by respondent-State.

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

Learned Counsel for the petitioner has argued that the petitioner has been falsely implicated in the case. The petitioner is not the owner of the car in question and was not driving the same. The petitioner merely took lift in the car and had no knowledge about the contents of the carry bag and the petitioner cannot be said to be in conscious possession of the contraband allegedly recovered. The petitioner is involved in one more case under the NDPS Act but he is on bail in the said case. The trial is likely to take long time due to restricts imposed to prevent spread of infection of Covid-19. 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 recovery of commercial quantity of intoxicant tablets was made from the carry bag of the petitioner. The petitioner is also involved in another case under the NDPS Act. In view of gravity of offences committed by the petitioner, the petitioner does not deserve the concession of regular bail. Therefore, the petition may be dismissed.

As per averments made in the recovery memo, recovery of 250 strips of Clovidol-100 SR each strip containing 10 tablets totalling 2500 tablets falling in the category of commercial quantity was made from the carry bag kept by the petitioner-Makhan Singh.

Keeping in view the facts and circumstances of the case, nature of accusation and evidence against the petitioner, applicablity of rigors of Section 37(1)(b) of the NDPS Act, absence of material to enable this Court to prima facie hold that the petitioner has not committed the offence in question and that the petitioner will not commit any other offence under the NDPS Act in future if released in bail and also the fact that the trial can be expedited on easing out of the restrictions imposed to prevent spread of infection of Covid-19, I am of the considered view that the petitioner does not deserve the concession of regular bail.

In view of the above, the petition is dismissed.

However, in view of the observations made by Hon'ble Supreme Court in *Doongar Singh Vs. State of Rajasthan 2018 (1) RCR Criminal 256, State of U.P. Vs. Shambhu Nath Singh and others, 2001 (2) R.C.R. (Criminal) 390, Hussain and another Vs. Union of India 2017(2) RCR Criminal 312* and *Thana Singh Vs. Central Bureau of Narcotics 2013(1) R.C.R(Criminal) 861*, the trial Court is directed to expedite the disposal of the case after easing out the restrictions imposed to prevent the spread of Covid-19 by conducting trial on day to day basis by allocating block of dates for the trial as directed by Hon'ble Supreme Court and by issuing coercive process for securing presence of the witnesses.

In case of non-appearance of official witnesses, the trial Court shall take appropriate action against the concerned police officials absenting without any lawful excuse by filing complaint under Section 174 of the Indian Penal Code, 1860 or taking proceedings under Section 350 of the Cr.P.C. against them.

The observations made by this Court are strictly for the purpose of disposal of the present petition and nothing in this order shall be treated as expression of any opinion on merits of the case so as to bind or influence the trial Court in adjudication of question of guilt or innocence of the petitioner.

A copy of this order be sent to the trial Court concerned for requisite compliance.

05.08.2020

Kothiyal

(ARUN KUMAR TYAGI)
JUDGE

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