

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

202-A

CRM-M-6642-2020 (O&M)

Date of decision: 21.08.2020

Chhinderpal Singh @ Chhindu

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Gurpal Singh Sandhu, Advocate
for the petitioner.

Mr. Sidakmeet Sandhu, Asstt. A.G. Punjab
for the respondent-State.

ARUN KUMAR TYAGI, J (ORAL)

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

CRM-13567-2020

The application has become infructuous and is accordingly disposed of.

CRM-M-6642-2020

The petitioner has filed the present (first) petition under Section 439 of the Code of Criminal Procedure, 1973 (for short, "the Cr.P.C.") for grant of regular bail in case FIR No.249 dated 28.11.2019 registered under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "the NDPS Act") and Sections 25 and 27 of the Arms Act, 1959 at Police Station City Malout, District Sri Muktsar Sahib.

As per the allegations in the FIR on 28.11.2019, the police party headed by S.I. Gurlal Singh, Police Station City Malout stopped

Swift car bearing registration No.DL-12CC-3278 on suspicion and on search 40 grams of heroin and one revolver .32 bore along with 10 live cartridges were recovered from co-accused Beant Singh, 50 grams of heroin was recovered from co-accused Swaranjit Singh and 50 grams heroin was recovered from the petitioner besides amount of Rs.5,32,000/- recovered from the dashboard of the car.

The petitioner, who is in custody since 28.11.2019, has filed the present petition for grant of regular bail.

Pursuant to supply of advance copy, learned State Counsel has appeared and opposed the petition. However, no reply has been filed by the respondent-State.

Custody certificate has been filed by learned State Counsel through email print out of which is taken on record.

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. No independent witness was joined at the time of alleged recovery. Mandatory provisions of the NDPS Act were not complied with. Quantity of contraband allegedly recovered from the petitioner falls in the category of non-commercial quantity. The petitioner has been falsely implicated in two more cases under the NDPS Act involving non-commercial quantity in which he is on bail. The trial is likely to take long time and no useful purpose will be served by further detention of the petitioner in custody during trial. Therefore, the petitioner may be granted regular bail.

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

In view of the facts and circumstances of the case, nature of accusation and evidence against the petitioner as to the petitioner having kept non-commercial quantity of the contraband in his conscious possession, the petitioner being on bail in two other cases under the NDPS Act and not being a previous convict and also the fact that the trial is likely to take long time due to restrictions imposed to prevent the spread of infection of Covid-19 but without commenting on the merits of the case, I am of the considered view that the petitioner may be extended the concession of regular bail.

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

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

21.08.2020
Kothiyal

(ARUN KUMAR TYAGI)
JUDGE

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