

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

Crl. Misc.M-6556 of 2020 (O&M)
Date of Decision: 14.9.2020

Sukhwinder Pal Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. PS Sekhon, Advocate
for the petitioner.

Ms. Rashmi Attri, AAG, Punjab.

JAISHREE THAKUR, J.

The instant petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 267 dated 9.12.2019, under Sections 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Dirba, District Sangrur.

Learned counsel for the petitioner contends that the petitioner herein has been falsely implicated in this case. He is in custody since 11.12.2019. It is alleged in the FIR that there was a youth coming on a motorcycle from the side of village Dugal and on seeing the police party on duty at the bridge, he tried to return from that point. When he tried to turn his motor cycle, the same got chocked and stopped. A transparent polythene bag was hanging on the handle of the motorcycle and the same was got torn. Resultantly, the strips of intoxicating tablets strewn on the road. It is argued

that it cannot be said that the petitioner was in conscious possession of the contraband allegedly recovered from him, while arguing that mandatory provisions of the Narcotic Drugs and Psychotropic Substances Act, 1985 have not been complied with. It is also submitted that the petitioner is not involved in any other case. It is also contended that no further investigation is required in the matter, since the challan has already been presented. Learned counsel relies on the judgment rendered in **Ravi Kumar Versus State of Punjab 2019 (4) R.C.R. (Criminal) 714** to contend that bail has been allowed in similar circumstances on the ground that the question of conscious possession would be a matter of trial.

Per contra, learned counsel appearing on behalf of respondent-State opposes the bail application, while submitting that the contraband recovered from the petitioner is of commercial nature, and therefore, he is not entitled to grant of regular bail by virtue of Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

I have heard learned counsel for the parties and perused the paper book.

Considering the fact that bail has been allowed in similar circumstances in **Ravi Kumar's case (Supra)** and the petitioner is in custody since 11.12.2019, this Court does not find any reason to decline the prayer as the trial is likely to consume considerable time in the wake of outbreak of global pandemic, namely, COVID-19 in the region as certain restrictions have been imposed by State Government and District Administration in order to curb its spread. Apart from that, the courts are not fully functional and are doing minimal working. The petitioner after his arrest is presently confined in judicial custody, therefore, further detention

behind the bars may not be justified. Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

The petition is allowed.

14.9.2020
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No