

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

222

**CRM-M-8878-2020
Date of Decision : 05.03.2020**

Jagsir Singh @ Jaggi

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Parminder Singh Sekhon, Advocate
for the petitioner.

Mr. Sandeep Singh Deol, D.A.G. Punjab
for the respondent-State.

ARUN KUMAR TYAGI, J. (Oral)

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.217 dated 19.08.2019 registered under Sections 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act') at Police Station Sadar Dhuri, District Sangrur.

As per the prosecution version, on 19.08.2019 ASI Krishan Singh received secret information that Bhupinder Dass @ Neeta, who is habitual of supplying the narcotic tablets to his customers after bringing the same from Jagsir Singh @ Jaggi, is coming to village Benra via village Dhura after purchasing heavy quantity from Jagsir Singh @ Jaggi and if a barricading is conducted on the link road, leading from village Benra to Village Dhura he can be apprehended. Accordingly, the police conducted barricading and apprehended him. Recovery of 1380 tablets containing tramadol hydrochloride was made from his possession. On investigation, in his disclosure statement accused-Bhupinder Dass @ Neeta also named the petitioner as supplier of the contraband. The petitioner being in custody since September, 2019 has sought grant of regular bail.

Learned State Counsel has appeared and opposed the bail application. However, no reply to the petition has been filed by the 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 on the basis of disclosure statement of co-accused. The petitioner was not apprehended on the spot and no recovery was effected from him. There is no evidence other than disclosure statement to connect him with the crime. Section 37(1)(b) of the NDPS Act is not applicable qua the petitioner. The petitioner is not involved in any other case. The trial is likely to take long time. The petitioner is in custody since September, 2019. No useful purpose will be served by further detention of 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 accused of having committed serious offence. The petitioner does not deserve the concession of regular bail. Therefore, the petition may be dismissed. However, the learned State Counsel has conceded that the petitioner is not involved in any other case under the NDPS Act.

In the present case, the petitioner was not apprehended on the spot and recovery was not made from him. The petitioner has been implicated on the basis of secret information and disclosure statement of the co-accused. There is no other material to show his complicity in the crime. Prima facie Section 37(1)(b) of the NDPS Act is not applicable qua the petitioner. In any case the conditions thereof stand satisfied due to probability of the petitioner not being involved in the present case and also likelihood of the petitioner not committing any offence under the NDPS Act in future as he is not involved in any other case under the NDPS Act. In view of the observations in ***Surinder Kumar Khanna Vs. Directorate of Revenue Intelligence (SC) : 2018 SCC Online 757*** and ***Sujit Tiwari Vs. State of Gujarat : AIR 2020 SC 667*** and keeping in view the facts and circumstances of the case, nature of accusation and evidence against the petitioner and the fact that the trial is likely to take long time and his presence during trial can be secured otherwise also than only by detention in custody 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.

05.03.2020

Kothiyal

(ARUN KUMAR TYAGI)
JUDGE

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