

101

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-11053-2020

Date of decision-20.07.2020

Ashok Kumar @ Kala

....Petitioner

Vs.

State of Punjab

...Respondent

**CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ**

Present: Mr. Salil Dev Singh Bali, Advocate for the petitioner.

Mr. Harsimar Singh Sitta, AAG, Punjab.

\*\*\*

**MANOJ BAJAJ, J.**

Petitioner-Ashok Kumar @ Kala has filed this petition under Section 439 Cr.P.C for grant of regular bail pending trial in case FIR No.45 dated 05.07.2019 registered under Sections 18 and 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Amir Khas, District Fazilka. The petitioner is in custody since his arrest on 05.07.2019.

As per the prosecution case, on 05.07.2019, when the Police party was on patrol duty at Village Ghanga Kalan, two persons were seen coming carrying separate black colour polythene bags. On seeing the police, both tried to run away and threw the bags. On suspicion, they were apprehended. Upon search, 1000 intoxicant tablets-Clovidol-100 SR was recovered from the polythene bag carried by the petitioner, whereas the co-accused (son of the petitioner) was carrying 30 grams opium.

Learned counsel for the petitioner contends that the petitioner is not keeping good health and he is suffering from Hepatitis-C. In support of this, he has produced the serology report dated 02.07.2020 issued by The Punjab Health Systems Corporation, Civil Hospital, Ferozepur. It is pointed out that the co-accused is his son who has already been released on regular bail by the trial Court vide order dated 14.08.2019 (Annexure P-2). Learned counsel has fairly stated that though the petitioner was involved in another case, however, in the said case he was acquitted later on. According to him, considering the ongoing pandemic, further custody of the petitioner may not be necessary. He has prayed that the concession of the regular bail be extended to the petitioner during the pendency of the trial.

On the other hand, learned State counsel assisted by ASI Sukhdev Singh opposed the prayer on the ground that the contraband recovered from the petitioner falls within the ambit of commercial quantity. However, it is not disputed that as per affidavit of Superintendent, Central Jail Ferozepur the petitioner is getting his treatment from Civil Hospital, Ferozepur. He has further pointed out that out of total twelve prosecution witnesses, only four have been examined so far.

Considering the above background, custody of the petitioner and his illness, this Court does not find any reason to decline the prayer of the petitioner as the trial is likely to consume considerable time to conclude as the country continues to be in the throes of global pandemic, namely, COVID-19 and the State Government and District Administration have also imposed various restrictions to curb its spread. The petitioner after his arrest

on 05.07.2019 is presently confined in judicial custody, therefore, his 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 trial Court/Duty Magistrate, Fazilka.

The petition is allowed.

(MANOJ BAJAJ)  
JUDGE

20.07.2020  
vanita

|                             |     |    |
|-----------------------------|-----|----|
| Whether speaking/reasoned : | Yes | No |
| Whether Reportable :        | Yes | No |