

110

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

CRM-M-11175 of 2020

Date of decision: May 21, 2020

Raj Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Vipin Mahajan, Advocate for the petitioner.

MAHABIR SINGH SINDHU, J

Present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (for short 'Cr. P.C.') for grant of bail pending trial to the petitioner, in FIR No.62 dated 12.07.2019, under Sections, 22, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), registered at Police Station Kalanaur, District Gurdaspur, Punjab.

Notice of motion.

Mr. Luvinder Sofat, AAG Punjab accepts notice on behalf of the State.

As per prosecution case, 7040 intoxicant tablets and 3000 intoxicant capsules were recovered from co-accused-Sarabjit Singh without having any valid permit or licence.

Contentends that neither the petitioner is named in the FIR; nor any recovery has been effected from him. Also contends that the occurrence, in this case, is alleged to have taken place on 12.07.2019 and 7040 intoxicant tablets & 3000 intoxicant capsules were recovered from

the main accused, namely Sarabjit Singh. Further contends that the petitioner along with Kulwinder Singh were nominated as accused on 15.07.2019, on the basis of disclosure made by the main accused, namely Sarabjit Singh. Further contends that the petitioner was arrested on 16.07.2019, but granted the concession of interim bail by the learned trial Court, on 03.09.2019, till the receipt of the FSL report. Thereafter, he surrendered on 17.02.2020 and since then he is in custody. It is also contended on behalf of the petitioner that even as per the disclosure made by the main accused, there is no allegation against him regarding the present recovery of contraband; rather mere allegation is that he used to purchase illicit drugs from Kulwinder Singh and it is very interesting that during investigation, said Kulwinder Singh has been found to be innocent.

On the other hand, learned State counsel opposed the prayer and submitted that the petitioner was involved in two other cases of similar nature, one in the year 2006 and another in 2010. Further submitted that so far as the case, which pertains to the year 2006, is concerned, he was convicted, but sentenced only for fine and no imprisonment was awarded. Also submitted that in the second case pertaining to the year 2010, petitioner was sentenced for 5 years, but acknowledged that he is on bail in that case.

Heard both sides and perused the paper-book.

Concededly, there is no recovery from the petitioner in the present case and on earlier occasion, he was granted the benefit of interim bail by the learned trial Court on 03.09.2019, thereafter, surrendered on 17.02.2020 and during this period, he never misused the concession of interim bail. Also noteworthy that even in the disclosure dated 15.07.2019

made by the main accused, there is no allegation that petitioner facilitated or abated the commission of the offence in the present case. Mere allegation is that petitioner also used to purchase the contraband from Kulwinder Singh. Since Kulwinder Singh is found to be innocent during investigation. The charges are yet to be framed in this case, therefore, trial will take sufficient long time. Consequently, this Court deems it appropriate that further incarceration of the petitioner would not serve any purpose.

In view of the above, this petition is allowed. Petitioner is ordered to be released on bail, in this case, on his furnishing adequate bail bonds and surety bonds to the satisfaction of learned trial Court/Duty Magistrate concerned.

It is made clear that in case, there is any recurrence on the part of the petitioner, State of Punjab would be at liberty to move an application for recalling of this order.

The above observations may not be construed as an expression of opinion on the merits of the case.

The petitioner shall fully co-operate with learned trial Court without seeking any unnecessary adjournments.

(MAHABIR SINGH SINDHU)
JUDGE

May 21, 2020

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Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No