

Feroze Alam

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTALPresent: Mr. Monty Goyal, Advocate
for the petitioner

Mr. J.S. Ghuman, DAG Punjab

Sudhir Mittal, J. (Oral)

The petitioner seeks grant of regular bail in case FIR No. 88 dated 08.09.2019 registered under Sections 21, 27, 29 of the NDSP Act, 1985 at Special Task Force, Phase-IV, Mohali, District SAS Nagar.

According to the FIR, secret information was received by the police that the petitioner is going to transport Heroin through his co-accused. The co-accused were intercepted and recovery of 500 grams of Heroin was effected.

Learned counsel for the petitioner submits that the petitioner was not arrested at the spot and has been nominated as an accused only on the basis of secret information. He has been falsely implicated as is evident from the fact that an observation of false implication has been recorded by this Court while granting bail to the petitioner in FIR No. 99 dated 28.09.2019. The petitioner was produced in the present FIR only after his arrest in the earlier FIR i.e. FIR No. 99 dated 28.09.2019. Thus, the petitioner is entitled to grant of regular bail. Apart from the merits, it has been submitted that the trial is not likely to be concluded at an early date as no PW has been examined till date.

Custody certificate dated 08.07.2020 of Deputy Superintendent,

Central Prison, Ludhiana has been placed on record. According to this custody

certificate, the petitioner has undergone actual custody of 9 months and 5 days. There is one more case under the NDPS Act, 1985 pending against him i.e. FIR No. 99 dated 28.09.2019.

Learned State counsel opposes the prayer for bail on the ground that the petitioner has been specifically named in the FIR and that the co-accused who were arrested at the spot have named the petitioner in their respective disclosure statements. It is, however, not denied that after framing of charges no PW has been examined till date.

Vide order dated 19.12.2019 passed in CRM-M-53332 of 2019, this Court has *prima facie* found that co-accused of the petitioner in FIR No. 99 dated 28.09.2019 has been falsely implicated. The order of grant of regular bail to the petitioner is dated 27.02.2020 passed in CRM-M-7864 of 2020. Further the fact that the petitioner was arrested in the present case only after he was produced on production warrant after arrest in the earlier case has not been denied. False implication can not be completely ruled out. That apart the petitioner has been in custody since 01.10.2019 and the trial is not likely to be concluded in the near future as no PW has been examined till date. Pendency of another case under the NDPS Act, 1985 does not influence this Court to deny bail to the petitioner as in the said case the High Court has *prima facie*, returned a finding of false implication. Thus, I deem it appropriate to grant bail to the petitioner.

Accordingly, the petition is allowed and the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

July 08, 2020
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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No