

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

203

CRM-M-12975-2020(O&M)

Date of Decision:05.06.2020

Rakesh Kumar @ Kaka

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Mr. Chandan Singh Rana, Advocate,
for the petitioner.

Mr. Dhruv Dayal, DAG, Punjab.

HARI PAL VERMA, J.(Oral)

The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

CRM-11278-2020

Prayer in this application filed under Section 482 Cr.P.C. is for exemption from filing/affixing the prescribed court fee.

Prayer for exemption of court fee on account of COVID-19 is accepted with the condition that the petitioner shall deposit the required court fee within a period of one month when the situation becomes normal from the COVID-19 effect.

CRM-M-12975-2020

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in FIR No159 dated 20.12.2019 under Section 18 of the NDPS Act, 1985 (Act No.61 of 1985 dated 16th

September, 1985) and Sections 182/186, 207 of the Motor Vehicles Act, registered at Police Station Julkan, District Patiala.

Learned counsel for the petitioner states that the alleged recovery is of 2 kg and 600 grams opium from three accused and the petitioner is in custody since 20.12.2019. The recovery is marginally above non-commercial quantity and there is no other case pending against the petitioner. He relies upon the order dated 04.12.2015 passed in **CRM-M-40417-2015 (Beera Ram Versus State of Punjab)** and the order dated 02.04.2018 passed in CRM-M-12751-2018 (**Yogeshwar Kumar alias Pankaj Versus State of Punjab**), whereby same quantity of opium was recovered from the petitioner(s) and they have been admitted on bail by this Court.

Learned State Counsel, on instructions from ASI Gurwinder Singh, does not dispute the custody period. However, he submits that FSL report in the case has been received and the contraband recovered from the possession of the petitioner has been found to be opium, whereas in the referred cases, there was no FSL report.

Heard learned counsel for the parties.

Be that as it may, but considering the fact that the petitioner is in custody since 20.12.2019, alleged recovery is of 2 kg 600 grams of opium from three different persons and there being no other case against the petitioner(as learned State Counsel has not pointed out any other case against the petitioner), coupled with the fact that trial in the case is not likely to be concluded in the near future, this Court deems it appropriate to admit the petitioner on regular bail.

Accordingly, the present petition is allowed and the petitioner

is admitted on regular bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of trial Court/Duty Magistrate.

However, it is made clear that the observations made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall proceed with the trial independently without being influenced by the order of bail passed by this Court.

The petitioner shall not extend any threat and shall not try to influence any prosecution witnesses directly or indirectly in any manner.

In case, the petitioner is found involved in any other case, the prosecution would be at liberty to seek cancellation of his bail.

June 05, 2020
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(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No