

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-13309 of 2020 (O&M)
Date of decision:01.10.2020

Rachpal Singh @ Palli

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

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

Mr. Harbir Sandhu, AAG, Punjab.

SUVIR SEHGAL, J. (Oral)

The Court has been convened through video conferencing due to Covid-19 pandemic.

CRM No.11608 of 2020

Prayer in the application is for exemption from filing original 'Power of Attorney' and affixing Court Fee, etc.

Let the needful be done within one month from today.

Application is disposed of.

CRM-M-13309 of 2020

The petitioner is seeking regular bail in FIR No.9 dated 25.01.2020 under Sections 21, 22 and 25 of Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as “the NDPS Act”) registered at Police Station Sidhwan Bet, District Ludhiana.

As per the version of the prosecution, on the basis of the secret information, a motorcycle with 03 riders was intercepted and 300 grams of Alprozolam were recovered from one of the riders.

Counsel for the petitioner has argued that intercepted motorcycle was being driven by Rachpal Singh (present petitioner), Paramjit Singh was sitting in the middle and Rajwinder Singh was sitting at the back. Counsel submits that recovery of the contraband had been effected from Rajwinder Singh, who was also owner of the motorcycle. It is the argument of the counsel that mandatory provisions of Section 50 of NDPS Act, have not been complied with, inasmuch as recovery was not effected from the co-accused in the presence of the Gazetted Officer or Magistrate. Counsel has relied upon the order dated 17.08.2020 passed by this Court in CRM-M-18295 of 2020 whereby co-accused Paramjit Singh was granted regular bail. He submits that the petitioner is 26 years old and there is no other criminal case pending against him. Challan, according to the counsel, has already been filed and the charges have not been framed. The trial is not progressing due to the restricted functioning of the Courts because of the outbreak of coronavirus (Covid-19) pandemic.

Opposing the petition for grant of bail, learned State counsel upon instructions from ASI Davinder submits that recovery effected from the co-accused was commercial in nature and therefore, the rigors of Section 37 of the NDPS Act, were attracted. He submits that merely because the contraband was allegedly being carried by the co-accused, the petitioner cannot wash off his hands from the recovery as he was travelling on the

same vehicle with the co-accused. He has filed the custody certificate dated 01.10.2020 which is taken on record and copy thereof, has been supplied to the counsel for the petitioner. As per his instructions, the challan was filed on 17.07.2020 and matter is pending for framing of the charges.

I have considered the rival submissions of the parties.

After examining the order dated 17.08.2020 passed by this Court in the case of co-accused, Paramjit Singh, I am satisfied that the petitioner deserves grant of regular bail on the ground of parity. The petitioner has unblemished antecedents.

Keeping in view the above facts and circumstances, period of incarceration of the petitioner which by now is 08 months and 01 day and the fact that the trial is likely to consume time due to spread of contagion, no useful purpose would be served by keeping the petitioner behind the bars any further.

Without commenting anything on the merits of the case, the petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

It is clarified that any observation made hereinabove shall not be construed to be a reflection of opinion on the merits of the case.

October 01, 2020

savita

Whether Speaking/Reasoned

Whether Reportable

(SUVIR SEHGAL)

JUDGE

Yes/No

Yes/No