

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-15247-2020

Date of Decision: 30.06.2020

Ramanand @ Guddu

.... Petitioner

Versus

UT Chandigarh

.... Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Vijay Lath, Advocate for the petitioner.

Mr. Sukant Gupta, Addl. PP for UT Chandigarh.

RAMENDRA JAIN, J. (ORAL)

Case has been taken up for hearing through video conferencing.

Through this petition under Section 439 Cr.P.C., petitioner-Ramanand @ Guddu, has prayed for grant of regular bail in case FIR No. 225 dated 22.08.2019, under Section 25 of the Arms Act and Sections 20 and 21 of the NDPS Act at Police Station Sector-31, UT Chandigarh.

According to prosecution, petitioner was apprehended with conscious possession of 15 kg 400 grams of ganja, 270 grams of heroin and one revolver along with four live cartridges.

Learned counsel for the petitioner while drawing attention of this Court upon Seizure Memo (Annexure P-2) contends that name of the petitioner was not mentioned in the same, therefore, the alleged recovery of revolver with four live cartridges, contraband and one Innova Crysta

car bearing registration No. PB-65-AC-0880, is not proved. He has falsely been implicated in the instant case. Seizure Memo Annexure P-2, is also silent about the place of recovery. No independent witness was jointed, thus, arrest of petitioner was in utter violation of Section 51 of the NDPS Act and Section 100 Cr.P.C. Learned counsel further submits that Investigating Officer and complainant in the instant case is the same person. Second Investigating Officer in the instant case was subordinate of the complainant. Petitioner was arrested one day prior to the date of FIR around 2.00 PM, from another district and State. Since, then he remained in police custody. If the weight of polythene bag is excluded, then the weight of contraband comes out from the category of 'commercial quantity'. Petitioner has filed CRM-M-40175-2019 (Annexure P-7) for transfer of investigation of in the instant FIR to some independent agency like CBI which is pending adjudication for 17.07.2020. In support of his contentions, learned counsel for the petitioner has relied upon judgment of the Apex Court in **Mohan Lal Vs. State of Punjab, AIR 2018 SC 3853.**

On the other hand, learned State counsel vehemently opposed the submissions of learned counsel for the petitioner submitting that judgment relied upon by learned counsel for the petitioner in **Mohan Lal's case (supra)**, has been overruled by the Apex Court by a judgment in **Virender Kumar Vs. State of Himachal Pradesh, 2019(1) RCR (Criminal) 1003.**

Having given thoughtful consideration to the rival submissions, this Court is not inclined to grant bail to the petitioner

considering heavy recovery of contraband from him which falls under 'commercial category'. Such a heavy recovery cannot be planted by the police by spending money from its own pocket. More so, drug trafficking in this Northern region of the country has increased manifolds in the recent past and, thus, such type of crime has to be dealt with severe hands.

The facts of Mohan Lal's case (supra), relied upon by learned counsel for the petitioner are distinguishable from the facts of instant case, therefore, no benefit of the same whatsoever can be given to him.

Dismissed.

At this stage, learned counsel for the petitioner submits that he may be permitted to withdraw the instant petition.

Dismissed as withdrawn.

June 30, 2020
rishu

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No