

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

**CRM-M-16373-2020
Date of decision: 10.07.2020**

Devraj @ Debi

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Charanpreet Singh, Advocate
for the petitioner.

Mr. Rana Harshdeep Singh, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 3 dated 02.02.2020, registered under Section 22 of the Narcotic Drugs & Psychotropic Substances Act, 1985 at Police Station Aur, District S.B.S. Nagar.

Learned counsel for the petitioner submits that as per the allegations in the FIR, when the police party was on patrol duty, they noticed that a person has thrown a black colour plastic bag by taking out from his pocket and on suspicion, the said person was apprehended and he disclosed his name as Devraj, the present petitioner. On enquiry, he told that there are intoxicant injections in the bag and the same was recovered and the present FIR was registered.

Learned counsel further submits that even in case of a chance recovery, the police is required to follow the mandatory provisions of the NDPS Act.

Learned counsel for the petitioner further submits that there is an old enmity of the petitioner with the police as earlier, the petitioner has given a complaint, on which an enquiry was conducted on the orders of the DGP, in which the petitioner appeared as a witness and suffered statement and on the same day, he was involved in an FIR under Section 307 IPC.

Learned counsel further submits that thereafter, the petitioner was involved in another FIR No. 81 dated 18.10.2017, under Sections 323, 324, 34, 379-B IPC at Police Station Mukandpur, in which complainant Jaswinder Lal @ Chhinda has given an affidavit that the police got registered this FIR by putting pressure on him.

Learned counsel further submits that even in another FIR, registered under the NDPS Act, the charge under the NDPS Act has been dropped by the Judge, Special Court, Ludhiana, vide order dated, 01.03.2017, noticing the fact that recovery effected from the petitioner does not fall in the category of narcotic substances.

Learned counsel further submits that even in another FIR No. 55 dated 22.08.2011, the Judicial Magistrate First Class, S.B.S. Nagar has dropped the charge under Section 15 of the NDPS Act against the petitioner, vide order dated 10.08.2016.

Learned counsel for the petitioner has, thus, argued that the petitioner is being repeatedly involved in false cases by the police on account of old enmity.

Learned State counsel, on the basis of the custody certificate, has submitted that the petitioner is involved in aforesaid case, which is well explained by learned counsel for the petitioner.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the fact that the petitioner is in judicial custody for the last more than five months and also in view of the fact that it will be a debatable issue during the course of trial whether proper procedure was followed during investigation or not, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaq Magistrate, concerned.

10.07.2020

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No