IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

211

CRM-M-16411-2020
Date of Decision : 28.07.2020

Kuljit Singh @ Babli .....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Harsh Aggarwal, Advocate
for the petitioner.

Mr. Sidakmeet Sandhu, AAG, Punjab
for the respondent-State.

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ARUN KUMAR TYAGI, J. (Oral)

The case has been taken up for hearing through video conferencing.

The petitioner has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.6 dated 11.01.2020 registered under Sections 15 and 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') at Police Station City Jagraon, District Ludhiana.

The facts relevant for disposal of bail application are that on 11.01.2020, pursuant to registration of FIR on secret information, the police party headed by ASI Jarnail Singh apprehended the petitioner and co-accused Gurmohat Singh @ Golu and on search as per the prescribed procedure recovered 52 kgs. Of poppy husk kept in 2 polythene bags from their possession.

The petitioner, who is in custody since 11.01.2020, has filed the present petition for grant of regular bail.

Petition has been opposed by learned State Counsel. However, no reply has been filed by respondent-State although learned State Counsel has filed custody certificate through e-mail print out of which is taken on record.

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I have heard learned Counsel for the petitioner and learned State Counsel and gone through the record.

Learned Counsel for the petitioner has argued that the petitioner has been falsely implicated in the case. Poppy Husk weighing 52 kgs. was allegedly recovered from the petitioner which was marginally higher to the non-commercial quantity. Weight of the contraband was taken along with the polythene bags weight of which had to be excluded therefrom. In view of the possibility and margin of error alleged recovery from the petitioner cannot be said to fall in the category of commercial quantity so as to attract Section 37(1)(b) of the NDPS. The petitioner is not involved in any other case under the NDPS Act.

Learned Counsel for the petitioner has further submitted that co-accused Gurmohat Singh @ Golu has been granted bail by the Coordinate Bench of this Court vide order dated 17.06.2020. Trial is likely to take long time due to restrictions imposed to prevent spread of Covid-19 and no purpose will be served by keeping the petitioner in custody. Therefore, the petitioner may be ordered to be released on regular bail.

On the other land, learned State Counsel has argued that the petitioner is accused of having kept commercial quantity of the contraband in his possession. The petitioner does not deserve the concession of regular bail. Therefore, the petition may be dismissed.

Keeping in view the facts and circumstances of the case, nature of accusation against the petitioner, the period of his custody, parity with co-accused Gurmohat Singh @ Golu who has been granted bail by the Coordinate Bench of this Court vide order dated 17.06.2020 and the fact that the trial is likely to take long time due to restrictions imposed to prevent spread of infection of Covid-19 but without commenting on merits of the case, I am of the considered view that the concession of regular bail may be granted to the petitioner.

Therefore, the petition is allowed and the petitioner is ordered to be released on regular bail on furnishing of bail bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

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However, the petitioner is granted regular bail subject to the condition that he shall not commit any offence under the NDPS Act after his release on bail and in case of commission of any offence under the NDPS Act by him in future his bail in the present case shall also be liable to be cancelled on application to be filed in this regard.

28.07.2020 (**ARUN KUMAR TYAGI**)
Kothiyal **JUDGE**

Whether speaking/reasoned Yes/No
Whether reportable Yes/No

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