

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

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**CRM-M-17857-2020
Date of Decision : 10.09.2020**

Jaspal Singh @ Bahla

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. P.K.S. Phoolka, Advocate for
Mr. Tarun Singla, Advocate for the petitioner.

Mr. Harbir Sandhu, Asstt. A.G. Punjab
for the respondent-State.

ARUN KUMAR TYAGI, J. (Oral)

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

The petitioner has filed the present (second) petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.123 dated 26.06.2019 registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') at Police Station Nathana, Bathinda to which Section 309 of the Indian Penal Code, 1860 (for short, "IPC") was added lateron.

As per the prosecution version, on 26.06.2019 police party headed by SI Kirpal Singh, on suspicion, stopped two young persons riding on the white Scooty which slipped and the riders fell down. One of them fled from the spot while the other one (the petitioner) was apprehended. On search 2350 tablets CLOVIDOL 100 SR were recovered from the plastic bag held by the petitioner in his right hand.

First petition filed by the petitioner for grant of regular bail was dismissed as withdrawn by the Coordinate Bench of this Court vide order dated 13.12.2019.

The petitioner, who is in custody since 26.06.2019, has filed the present (second) petition for grant of regular bail.

The petition has been opposed by learned State Counsel.

However, no reply has been filed by respondent-State.

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. Mandatory provisions of NDPS Act were not complied with. No independent witness was joined at the time of alleged recovery. Co-accused Lakhwant Singh @ Bhundi has already been granted regular bail by this Court vide order dated 04.02.2020. The petitioner is not involved in any other case. The trial is likely to take long time. No useful 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 hand, learned State Counsel has argued that the petitioner kept in his possession commercial quantity of the contraband without any permit or licence. In view of gravity of offence, the petitioner does not deserve the concession of regular bail. Therefore, the petition may be dismissed.

In the present case, the petitioner was apprehended on the spot and the alleged recovery of 2350 tablets of CLOVIDOL 100 SR was made from the bag held by him. His co-accused Lakhwant Singh @ Bhundi was granted bail by this Court as he was arrested on the basis of his implication in the disclosure statement of the petitioner and debatable question as to his conscious possession over the contraband recovered from the possession of the petitioner was involved. Since recovery of the contraband was made from possession of the petitioner, the case of the petitioner stands on a footing different from that of his co-accused Lakhwant Singh @ Bhundi.

Keeping in view the facts and circumstances of the case, nature of accusation and evidence against the petitioner, his case being on different footing from that of his co-accused Lakhwant Singh @ Bhundi, applicability of rigors of Section 37(1)(b) of the NDPS Act, absence of material to enable this Court to prima facie hold that the petitioner has not committed the offence in question and that the petitioner will not commit any other offence under the NDPS Act in future if released in bail and also the fact that in view of the petitioner being in custody in the case the trial can be expedited on easing out of

the restrictions imposed to prevent spread of infection of Covid-19, I am of the considered view that the petitioner does not deserve the concession of regular bail.

In view of the above, the present petition for grant of regular bail to the petitioner is dismissed.

However, in view of the observations made by Hon'ble Supreme Court in *Doongar Singh Vs. State of Rajasthan 2018 (1) RCR Criminal 256*, *State of U.P. Vs. Shambhu Nath Singh and others, 2001 (2) R.C.R. (Criminal) 390*, *Hussain and another Vs. Union of India 2017(2) RCR Criminal 312* and *Thana Singh Vs. Central Bureau of Narcotics 2013(1) R.C.R(Criminal) 861*, the trial Court is directed to expedite the disposal of the case after easing out of the restrictions imposed to prevent the spread of Covid-19 by conducting trial on day to day basis by allocating block of dates for the trial as directed by Hon'ble Supreme Court and by issuing coercive process for securing presence of the witnesses.

In case of non-appearance of official witnesses, the trial Court shall take appropriate action against the concerned police officials absenting without any lawful excuse by filing complaint under Section 174 of the Indian Penal Code, 1860 or taking proceedings under Section 350 of the Cr.P.C. against them.

The observations made by this Court are strictly for the purpose of disposal of the present petition and nothing in this order shall be treated as expression of any opinion on merits of the case so as to bind or influence the trial Court in adjudication of question of guilt or innocence of the petitioner.

A copy of this order be sent to the trial Court concerned for requisite compliance.

10.09.2020

Kothiwal

(ARUN KUMAR TYAGI)
JUDGE

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