

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

**CRM-M-18247 of 2020 (O&M)
DATE OF DECISION : 28.07.2020**

Raju Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Parminder Singh Sekhon, Advocate,
for the petitioner.

Mr. Dhruv Dayal, Sr. DAG Punjab.
(Presence marked through video conference)

ARUN MONGA, J. (ORAL)

1. The petitioner is seeking regular bail in FIR No. 238 dated 22.04.2020, registered under Sections 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, Police Station City, Barnala, District Barnala.

2. As per allegations in the FIR, police party conducted a raid at the house of co-accused Pinky Kaur and from her and one Rajinder Singh @ Bhinder, 2900 contraband tablets Alprasaft 0.5 mg were recovered. On the basis of their disclosure statement, another raid was conducted at the house of petitioner and from him 300 intoxicant tablets along with Rs.30,000/- drug money were recovered.

3. Learned counsel submits that the petitioner is in custody since 22.04.2020. His wife died on 09.09.2019 and ever since the petitioner was looking after his two minor children. There is none else to look after them and they are suffering immensely due to petitioner's preventive custody.

4. Learned counsel further submits that Pinki Kaur, from whom 2900 tablets were recovered and on the basis of whose disclosure statement, the petitioner was arrayed as an accused, has already been granted the concession of bail by this Court vide order dated 15.07.2020 passed in CRM-M-16921 of 2020. According to him, the alleged recovery from the petitioner is much less than as compared to co-accused Pinki Kaur i.e. 300 tablets and on the ground of parity alone the petitioner is entitled to bail. He further submits that provisions of NDPS Act have wrongly been applied in this case instead of Drugs and Cosmetics Act, that too without resorting to proper procedure as enshrined in NDPS Act.

4. On the other hand, learned State counsel opposes the bail plea. He, however, admits that co-accused Pinki Kaur, from whom 2900 intoxicating tablets were recovered, has been granted the concession of regular bail. He submits that FSL report is still awaited and trial is yet to commence.

5. The petitioner is in custody since 22.04.2020. Applicability of provisions of NDPS Act or Drugs and Cosmetics Act is a debatable question that will be adjudicated at the trial. In the current scenario of Covid-19 pandemic, wherein Courts are working with restrictions and taking up only urgent matters, there is no likelihood of commencing or concluding of trial in near future. FSL report is still awaited. That apart, the petitioner is also entitled to bail on the ground of parity.

6. Without expressing any opinion on the merits of the case, the petition is allowed. Petitioner shall be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of Chief Judicial Magistrate/ Duty Magistrate, Barnala, as the case may be.

(ARUN MONGA)
JUDGE

JULY 28, 2020
Jiten

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