

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-19229-2020

DATE OF DECISION: AUGUST 5, 2020

MAHENDER KUMAR

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. NAVNEET JINDAL, ADVOCATE FOR THE PETITIONER.
MR. SUKHDEEP SINGH PARMAR, DAG, HARYANA.

MANOJ BAJAJ, J.(ORAL)

Petitioner Mahender Kumar has filed this petition under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No.80 dated 28.2.2020, under Section 22 NDPS Act, 1985, P.S. Ellenabad, District Sirsa. The petitioner is in custody since his arrest on 29.2.2020.

The allegations contained in the FIR as noticed by the Addl. Sessions Judge, Sirsa in his order dated 14.7.2020 are as under:-

“On 28.2.2020 police party headed by ASI Suresh Kumar was present for patrolling duty at Udham Singh Chowk, Rania Road, Ellenabad where two persons on motor-cycle (without registration) were seen coming from the side of market. They were intercepted and during enquiry, motor-cyclist disclosed his name Sanjay Kumar, whereas pillion rider disclosed his name Jagtar Singh @ Gugu S/of Sunam Chand. Search of poly bag carried by them led to recovery of 52 strips of PARVORIN-SPAS RIDLEY Tramadol capsules having 10 capsules in each strip, in total 520 capsules. The same were converted

into sealed parcel by affixing seal of 'SK' and taken into possession. On usual formalities, the present case was registered and the accused were arrested. During further interrogation, accused Sanjay Kumar and Jagtar Singh disclosed that they purchased the drug from Mahender S/of Surja Ram.”

Learned counsel for the petitioner contends that the alleged contraband was recovered from two accused persons, namely, Sanjay and Jagtar who were riding on a motorcycle. Learned counsel for the petitioner further contends that the petitioner is neither the owner of the said vehicle nor connected with the alleged contraband, who has been falsely indicted on the strength of the disclosure statement suffered by the co-accused. According to him, the investigation of the case is complete as the final report stands filed on 6.6.2020. It is further contended that the co-accused have been released on interim regular bail as the FSL report is awaited. He prays that the petitioner be released on regular bail during the pendency of the trial.

Learned counsel for the State assisted by ASI Rajesh Kumar has opposed the prayer on the ground that the petitioner was involved in similar cases, though in two cases he stands acquitted, however, in one such case the trial is pending. It is not disputed by him that the recovery was effected from the co-accused who were apprehended by the Police and on their disclosure, the petitioner was also made a co-accused.

At this stage, learned counsel for the petitioner contends that the other case wherein the trial pending, the petitioner was indicted in the said case in the similar way and the petitioner was granted the concession of

anticipatory bail. This fact is also not disputed by the learned State counsel.

Considering the above, this Court is of the opinion that the investigation of the case is complete and the trial of the case is likely to consume considerable time in the wake of outbreak of global pandemic, namely, COVID-19 in the region as certain restrictions have been imposed by State Government and District Administration in order to curb its spread, therefore, further custody of the petitioner may not be justified. The petitioner is presently confined in judicial custody and is not required for any useful purpose.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

August 5, 2020
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No