

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

CRM-M-19748-2020 (O&M)

Date of decision: 07.10.2020

Mohammad Tofieq

...Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Amit Dhawan, Advocate for the petitioner.

Mr. M.S. Nagra, AAG Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

This petition under Section 439 of Cr.P.C. is for grant of regular bail in case FIR No. 156 dated 06.10.2018 registered under Section 15 of the NDPS Act, at Police Station Bhogpur, District Jalandhar.

Learned counsel for the petitioner states that the petitioner has falsely been implicated in the present case. The petitioner was not the owner of the truck and was working as the Driver. The alleged recovery of 180 kg of Poppy Husk was effected from the cabin of the truck being driven by the petitioner. Co-accused Harbhajan Singh @ Bhajja has already been granted bail vide order dated 14.09.2020. The petitioner has been in custody since 06.10.2018.

It is further contended that it is a case, wherein a joint offer was made by the prosecution regarding the search of the petitioner. Thus, there

being non-compliance of the provisions of Section 50 of the NDPS Act, the recovery effected stands vitiated.

Copy of custody certificate by way of affidavit dated 06.10.2020 the of Deputy Superintendent, Central Jail, Kapurthala submitted by the learned State counsel through email, is taken on record.

Learned State counsel states that the recovery was effected in the presence of the DSP and it cannot be said that Section 50 of the NDPS Act has not been complied with. Out of 13 prosecution witnesses, only 6 witnesses have been examined so far.

I have heard the learned counsel for the parties.

Considering the submission made by the learned counsel, it will certainly be debatable as to whether a joint offer as extended in the present case is valid or not. Even otherwise, the petitioner has been in custody since 06.10.2018. Though the case is at the stage of evidence, yet the trial will take time to conclude, especially due to prevailing situation of Covid-19. Thus, no useful purpose would be served by keeping the petitioner behind the bars.

In view of the above, without commenting anything on the merits, lest it should prejudice the case of either side, the petition is allowed and the petitioner is ordered to be released on regular bail to the satisfaction of the learned trial Court/Duty Magistrate.

07.10.2020

Mangal Singh

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No