

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

**CRM-M-20979-2020 (O & M)  
Date of decision: 31.07.2020**

Ravi Kumar @ Ravi

.....Petitioner

Versus

State of Punjab

.....Respondent

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI**

Present : Mr. Ramnish Puri, Advocate  
for the petitioner.

Mr. Harbir Sandhu, AAG, Punjab

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**ARUN KUMAR TYAGI, J. (ORAL)**

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

**CRM-18175-2020**

For the reasons mentioned in the application, the same is allowed and the petitioner is exempted from filing certified/typed copies of Annexures.

**CRM-M-20979-2020**

Prayer in the present 2nd (second) petition filed under Section 439 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') is for grant of regular bail in case FIR No. 195 dated 16.07.2018 registered under Sections 21 and 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act') at Police Station A Division, District Amritsar.

The petitioner, who is in custody since 16.07.2018, has filed the present petition for grant of regular bail. His 1st petition for grant of regular bail was dismissed as withdrawn vide order dated 04.02.2020.

The petition has been opposed by learned State Counsel. However, no reply has been filed on behalf of the respondent-State.

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

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in the case. Allegations made in the FIR are false as no such incident ever took place. The petitioner is not owner of the scooter from the *dikki* of which alleged recovery was made and the petitioner cannot be said to be in conscious possession of the contraband allegedly recovered therefrom. Recovery was also allegedly made on his personal search. No notice under Section 50 of the NDPS Act was served on the petitioner. Provisions of Sections 42, 50, 55 and 57 of the NDPS Act were not complied with. No independent witness was joined at the time of alleged recovery. Offences alleged are not made out. Co-accused Veena has been granted regular bail by this Court vide order dated 28.05.2019. Out of the total 11 prosecution witnesses only 1 prosecution witness has been examined. The petitioner is not involved in any other case under the NDPS Act. The trial is likely to take long time due to restrictions imposed to prevent the spread of infection of Covid-19. No useful purpose will be served by detention of the petitioner in custody during trial. Therefore, the petitioner may be granted regular bail.

On the other hand, learned State Counsel has submitted that the petitioner had kept heroin weighing 10 grams falling in the category of non commercial quantity and 1275 intoxicant tablets containing 'Alprazolam' falling in the category of commercial quantity in his conscious possession. In view of the nature of accusation, the petitioner does not deserve the concession of regular bail. Therefore, the petition may be dismissed.

Learned State Counsel has filed custody certificate through e-mail, print out of which is taken on record.

In the present case, the petitioner is alleged to have kept inter alia 1275 tablets containing 'Alprazolam' falling in the category of commercial quantity and rigors of Section 37(1)(b) of the NDPS Act are applicable to the case. The question as to the effect of non

compliance of Sections 42, 50, 55 and 57 of the NDPS Act and not joining of independent witness has to be adjudicated upon on the basis of evidence to be produced during trial and cannot be determined at this stage. Prima facie the petitioner cannot be said to have reasonable prospect of acquittal on the basis thereof. The petitioner was driving the scooter from the *dikki* of which the commercial quantity of contraband was recovered. There is no ground to hold that the petitioner has not committed the offences in question and that the petitioner will not commit any similar offence under the NDPS Act after his release on bail. Mere spread of pandemic Covid-19 is by itself no ground for grant of bail as nature of accusation, quantum of sentence and relevant statutory provisions are also required to be taken in consideration. The trial can be ordered to be expedited on easing out of the restrictions imposed to prevent the spread of infection of Covid-19.

Keeping in view these facts and circumstances of the case including nature of accusation and evidence against the petitioner but without commenting on the merits of the case, I am of the considered view that the petitioner does not deserve grant of regular bail. Therefore, the petition 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 on resumption of normal working 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.

31.07.2020

kavneet singh

(ARUN KUMAR TYAGI)  
JUDGE

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