

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-20762 of 2020

Date of Decision: 27.08.2020

Ramesh Kumar @ Kala Dodhi

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Aman Dhir, Advocate,
for the petitioner.

Mr. Bhupinder Beniwal, AAG, Punjab.

AMOL RATTAN SINGH, J. (ORAL)

All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the COVID-19 pandemic.

On July 29.07.2020, the following order had been passed:-

“All the cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the Covid-19 pandemic.

By this petition, filed under the provisions of Section 438 of the Cr.P.C., the petitioner seeks the concession of anticipatory bail upon FIR no.165, dated 13.07.2020, having been registered at Police Station Gidderbaha, District Sri Muktsar Sahib, alleging therein the commission of offences punishable under Section 18 of the NDPS Act, 1985 and Section 61 of the Punjab Excise Act, 1914.

Learned counsel for the petitioner points to the fact that as per the allegation in the FIR, the house of the petitioner, the Nohra, as also the car from which the contraband is alleged to have been recovered, were all lying open, with no member of the house present

in the house but the allegation being that even keys were left in the car with the opium lying on the dashboard and with the liquor bottles being on the back seat and the boot/trunk of the car.

He submits that therefore the story itself is not believable and actually the entire FIR is wholly a concoction and has been wholly falsely registered, due to a rivalry in the village on account of the fact that next to the milk dairy of the petitioner there is a liquor vend, with there being a perpetual parking problem, and with the petitioners' wife also having lodged a complaint in that regard.

Notice of motion, with Mr. Ramandeep Sandhu, learned Sr. DAG, Punjab, accepting notice on behalf of the respondent-State, he already having received instructions in advance.

Learned State counsel submits that, firstly, as regards the complaint of the petitioners' wife, that is of the year 2016 whereas the present allegation is of the year 2020 and therefore there is no connection between the two. As regards the house being open and the car also being open etc. he submits that anybody can be careless, with the petitioner obviously having been careless in that regard.

Upon query to Mr. Sandhu as to whether any photograph or video recording was taken of the occurrence, he submits that so far he has no instructions in that regard.

Having considered the entire circumstances, the petitioner is directed to join investigation and upon doing so, in case he is sought to be arrested, he would be admitted to interim bail, on his furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Illaq Magistrate. He shall abide by the conditions stipulated in Section 438(2) of the Cr.P.C.

If the arresting officer does not join the petitioner in investigation, he would appear before the learned Illaq Magistrate immediately, who would then summon the arresting officer and direct him to join him in investigation.

If of course any photograph has been taken of the recovery, which normally should have been done even as per basic investigation, that would be produced before this court by the learned

State counsel.

Adjourned to 27.08.2020.”

Today, learned State counsel submits that the petitioner is a habitual offender, though he has joined investigation.

With regard to any photographs/videography of the recovery having been made, he submits that no such photographs have been sent to him.

That being so, for the reasons already given in the aforesaid order, this petition is allowed, with the aforesaid order made absolute on the same terms and conditions.

August 27, 2020
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(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No