

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

CRM-M-20784-2020 (O&M)

Date of Decision: September 17, 2020

Surinder Singh @ Kaka

..... Petitioner(s)

Versus

State of Punjab

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Sandeep Wadhawan, Advocate
for the petitioner.

Mr. Ajay Pal Singh Gill, D.A.G., Punjab.

LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

The petitioner prays for grant of bail pending trial in FIR No.43, dated 15.03.2020 under Sections 18, 29 of the NDPS Act, registered at Police Station Sadar Nakodar, District Jalandhar.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in this matter and is not connected with the offence in question. It is further submitted that the mandatory provisions of the NDPS Act have also not been complied with. Moreover, as per the allegations in the FIR, the petitioner is alleged to have been carrying 2.6

kilograms of opium. It is submitted that in this situation, it is debatable whether the alleged contraband was in fact weighing 2.6 kilograms or was less than 2.5 kilograms opium, which is the commercial quantity as per the NDPS Act. The rigours of section 37 of the NDPS Act would thus not apply. The petitioner, it is submitted, is not involved in any other criminal case and the challan stands presented though without the FSL report. Learned counsel for the petitioner relies upon decisions of this Court in *Yadwinder Singh @ Ghona vs. State of Punjab*, (2019)¹ Law Herald 43 and *Satinder Singh @ Gaggi vs. State of Punjab*, (2018)³ Law Herald 2674, to submit that as the alleged contraband is marginally over the commercial quantity, the petitioner be granted the concession of bail. It is, thus, prayed that this petition be allowed.

Learned counsel for the State, on instructions from ASI Inderjit Singh, affirms and verifies that the petitioner is not involved in any other criminal case and that the final report under Section 173 Cr.P.C. stands presented. The FSL report has not yet been presented.

There is merit in the argument raised by learned counsel for the petitioner that it is debatable whether the quantity of the contraband allegedly recovered from the petitioner is above the commercial quantity i.e. 2.5 kilograms and that as of now even the FSL report has not been submitted. There is no allegation that the petitioner is likely to abscond or influence witnesses. Due to the situation created by the outbreak of the pandemic COVID-19, trial in this case is not likely to be concluded in the near future. No useful purpose would be served by keeping the petitioner incarcerated any longer.

Keeping in view the facts and circumstances of the case but without commenting upon or expressing any opinion on the merits thereof, this petition is allowed. The petitioner be released on bail pending trial subject to his furnishing requisite bail bonds and surety to the satisfaction of the learned Trial Court/Duty Magistrate.

It is clarified that none of the observations made hereinabove shall be construed to be a reflection on the merits of the case. The same are solely confined for the purpose of decision of the present petition.

17.09.2020

Sunil

(LISA GILL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No