

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-21585-2020 (O&M)
Date of Decision:-28.8.2020

Surinder Kumar @ Gadnu

... Petitioner

Versus

Narcotic Control Bureau, Chandigarh

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Sudershan Thakur, Advocate for the petitioner.

Mr. Sanjay Vashisht, Senior Panel Counsel for respondent-NCB.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.(Oral)

CRM-19647-2020

In view of the reasons mentioned in the application, the same is allowed and the reply on behalf of respondent in the shape of affidavit dated 10.8.2020 alongwith documents Annexures R-1 to R-3 annexed with the application are taken on record.

CRM-M-21585-2020

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered vide criminal case bearing No.49 dated 20.11.2016 at Police Station NCB, Zonal Unit, Chandigarh under Sections 8, 20, 29 and 60 of Narcotic Drugs and Psychotropic Substances Act, 1985.

2. It is the case of prosecution that three persons namely Kishori Lal Rana @ Sanju, Charan Dass and Lekh Raj were apprehended while travelling in a car and 3.810 kilograms of '*charas*' was recovered from them. It is further the case of prosecution that during the course of interrogation the aforesaid three accused made confessional statements before the officials of Narcotic Control Bureau (NCB) to the effect that they had procured about 2 kilograms of '*charas*' from Om Shankar and another 2 kilograms of '*charas*' from the present petitioner. It is further the case of prosecution that during the course of investigation, the police has been able to collect evidence to the effect that two cheques, one in the name of petitioner as well as another in the name of wife of the petitioner, amounting to ₹35,000/- each were given by Kishori Lal Rana @ Sanju, which upon presentation are stated to have been dishonoured.
3. The learned counsel for the petitioner has submitted that the petitioner has been nominated as an accused on the basis of an alleged confessional statement made by co-accused and that he was never arrested at the spot nor any recovery was effected and that he has clean antecedents and is not involved any other case under Narcotic Drugs and Psychotropic Substances Act. It has further been submitted that, in any case, the petitioner deserves the concession of bail on grounds of parity inasmuch as not only the other identically situated co-accused namely Om Shankar but even three prime co-accused namely Kishori Lal Rana @ Sanju, Charan Dass and Lekh Raj, who were caught red-handed at the spot, have since been granted bail.
4. Opposing the petition, the learned State counsel has submitted that although the petitioner was not apprehended at the spot but the confessional statement made by the co-accused coupled with the fact that there is evidence to the

effect that Kishori Lal Rana @ Sanju had given two cheques amounting to ₹35,000/- each to the petitioner and his wife, which upon presentation are stated to have been dishonoured, the complicity of petitioner is clearly evident. The learned State counsel has, however, not disputed the fact that other co-accused have already been granted bail though he has informed this Court that an application for cancellation of their bail is already pending in Hon'ble the Supreme Court. It has further been submitted that the petitioner had earlier remained proclaimed offender but as of now has been behind bars since the last more than six months.

5. I have considered rival submissions addressed before this Court.
6. Keeping in view the fact that the petitioner was not amongst those three, who were caught red-handed in possession of the contraband, and that his name surfaced pursuant to an alleged confessional statement made by co-accused, the veracity and admissibility of which would be debatable and the fact that the petitioner has been behind bars since the last more than six months and also that all other co-accused have already been granted bail and that the petitioner is not stated to be involved in any other case under Narcotic Drugs and Psychotropic Substances Act, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted and it is ordered that the petitioner be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

28.8.2020

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned
Whether Reportable

Yes / No
Yes / No