

In virtual Court

CRM-M-21636-2020

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-21636-2020 (O&M)
Date of decision: 21.12.2020

Lachmi @ Kali

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. F.S. Virk, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.292 dated 25.05.2020 under Sections 22 & 29 of NDPS Act, registered at Police Station City Barnala, District Barnala.

Learned counsel for the petitioner relies upon the order dated 11.09.2020 passed in CRM-M-26318-2020, vide which co-accused Jagjit Singh has been granted the concession of regular bail. The operative part of the order reads as under: -

“...Learned counsel for the petitioner states that the very

information is without any basis that the petitioner alongwith Lachmi @ Kali had been bringing and selling intoxicant tablets in the area. The petitioner is neither the previous convict nor involved in any other FIR. Even the FIR does not describe as to how the recovery was effected. There is complete violation of Sections 50 and 40 of NDPS Act.

Learned counsel for the State on instructions from ASI Balwinder Singh submits that the recovery was effected while the petitioner was counting the tablets. He further informs that the challan is ready but has not been presented as yet.

Heard.

It is an admitted position that the petitioner is not a previous convict and is not involved in any other FIR under NDPS Act. That prima facie makes the case of the State doubtful. The petitioner, a young man of 32 years, is the only bread winner of the family. He is in custody since 25.5.2020. Even challan has not been filed till date. Therefore, there is total uncertainty about the conclusion of the trial, particularly in the present scenario of Covid -19 pandemic. No useful purpose will be achieved by keeping the petitioner under further incarceration.

In view of the above, the present petition is allowed and the petitioner is ordered to be released on bail during the pendency of trial on his furnishing bail bonds/ surety bonds to the satisfaction of the trial Court/CJM/ Duty Magistrate....”

Learned counsel for the petitioner has relied upon **Prabhakar Tiwari Vs. State of U.P. and anr., 2020 SCC Online 75**, wherein it has been held by the Hon’ble Apex Court that criminal cases pending against the accused cannot be made the basis for grant/refusal of regular bail. It is submitted that the

petitioner is in custody for the last six months and 20 days and the trial is not proceeding due to COVID-19 situation.

Learned State counsel has filed the custody certificate in the Court today and on basis of the same, submits that the petitioner is involved in more case under NDPS Act, in which he is on bail.

After hearing learned counsel for the parties, without commenting upon merits of the case and considering the fact that the petitioner is lady; co-accused of the petitioner has been released on regular bail and the trial is not proceeding due to COVID-19 situation, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

21.12.2020
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No